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MINUTES

OF THE

PROCEEDINGS AND EVIDENCE,

OF THE

Commission of Inquiry,

ORDERED BY

THE IRISH GOVERNMENT,

INTO CHARGES OF

PROSELYTISM AND CRUELTY

PREFERRED

AGAINST THE OFFICERS

OF THE

Richmond General Penitentiary.

DUBLIN:

J. C. SCULLY, 35, UPPER ORMOND-QUAY.

1827.

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THOMAS REILLY, Printer,
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TO THE

CATHOLIC ASSOCIATION

Of Ireland,

THE FOLLOWING REPORT

IS INSCRIBED,

BY THE HUMBLE MEMBER OF THAT BODY,

WHO,

INFLUENCED SOLELY BY A SENSE OF PUBLIC DUTY,

UNDERTOOK THE TASK OF COMPILING IT.

PREFACE.

THE INDIVIDUAL who has compiled this Report was thrown upon the performance of that duty accidentally. Having heard that a COMMISSION OF INQUIRY had assembled by order of the IRISH GOVERNMENT, to Investigate Charges of Cruelty and Proselytism, which were preferred against the Governor and Officers of the *Richmond General Penitentiary*, he attended as an Auditor, under the impression that the Court was, as he conceived it should be, open to the Public. On it being perceived, by the Parties concerned, that he was in attendance, means were used to oblige him to withdraw. He respectfully urged his right to be present; and this led to much discussion, and to more than one application to the Office of the SECRETARY of STATE. In the end it was determined that he could only retain his place by acting as Note-taker, and he accordingly assumed the functions that had been previously assigned to a Gentleman appointed to act in that capacity. In doing so he acceded to the request of the Rev. Mr. O'DONOVAN, who expressed much desire for his assistance, in consequence of the abandonment, by consent, at that time, of Counsel and Agent.

A considerable portion of the Evidence which is now submitted to the Public, is obviously irrelevant to the object of the Inquiry, and without prejudice to the case, might have been omitted. To prevent, however, any imputation against the integrity of the Report, it has been thought advisable to publish it in an unmutilated state, and it accordingly comprises ALL that had been elicited on both sides.

INVESTIGATION

AT THE

RICHMOND GENERAL PENITENTIARY.

Copy of the Memorial presented to his Grace, the Most Reverend Doctor Murray, Roman Catholic Archbishop of Dublin.

An Appeal to his Grace, the Most Reverend Doctor Murray, Roman Catholic Archbishop of Dublin.

May it please your Grace,

WE, whose names are undersigned, unworthy members of that Church of which your Grace is head in this Archdiocese, consider it a duty which we owe to ourselves, to our brethren who have suffered, to those who are now suffering, and to those who might hereafter suffer, for *conscience' sake*, most humbly to submit the following statement of what we have heard and seen whilst we had the misfortune to be confined in the Richmond General Penitentiary, in Dublin.

got dangerously ill, when he was sent to the hospital, where he died for want of care.

Carey, Martin, Barry, Kelly, and others, have been put into the *stocks* in the *piggery*, for a number of days, deprived of bed and bedding, where they were fed for sixteen or eighteen days on nothing but bread and water, whilst some of them required the assistance of a companion to perform the necessities of nature, in a manner too shocking to mention.

Patrick M'Kee (or Magee) and others have heard, and believe, that John Monaghan, Thomas Connell, John Duffy, John Walsh, and others, were gagged with iron keys between two and three inches long, full of spikes, which were put into their mouths, which cut their tongues if they attempted to speak, until the blood ran down on their clothes; and a pound of bread and a quart of water, were given them as their only food, during forty-eight hours, as punishments adopted to change them from their Religion. In addition to this, John Walsh was confined in a stone and iron cage, for a fortnight, in a place unattached to the Penitentiary. Thomas Connell was handcuffed, and had his arms secured by an iron chain behind his back, whilst Patrick M'Kee (or Magee) was obliged to render him assistance when he was necessitated to comply with the calls of nature.

Mary Frazer, a convict, related that she was tied down to the rack, without being able to assist herself for fourteen weeks, during which time she was unable to comply with the calls of nature, without assistance; was totally deprived of going to Chapel on Sundays; and at last, through persecution and terror, was obliged to become an apostate.

Patrick Carey suffered most severe hardships, persecutions, and punishments, in order to induce him to renounce the Catholic Religion, and become a hypocritical professor of the Protestant Religion. Having expressed a desire to go to the Chapel, he was put into the stocks, and was confined for upwards of two months in a solitary cell, and being within two years of the time appointed by the administrators of justice for his complete liberation from the Penitentiary—for his desire to go to Mass, and to see the Catholic Chaplain, he was conveyed to the hulk at Dunleary, in order to be transported. On the day before he was sent from the Penitentiary he entreated the Catholic Chaplain to see him before his departure, but was hastily sent away without being allowed to have any communication with him.

John Grey, John Russell, and others, were confined in a solitary cell, and doomed to suffer, accordingly, for desiring to go to Mass, and for wishing to see the Catholic Priest Manus M'Laughlin after being tortured for his adherence to the Catholic Religion, and for his refusing to go to Church, having told the Governor that *he* had nothing to do with the Religion of the prisoners, as there were Chaplains in the Institution; for thus expressing himself, and for desiring to go to Mass, he was removed from the first class to the third or condemned class, and there locked up in solitary confinement for several weeks. The acts of desperation which have taken place in the Penitentiary as directly created by the plans adopted to proselytise the unfortunate Catholic prisoners, have been considerable.

When prisoners come into the Penitentiary they are kept in solitary confinement for several weeks, as we have already stated—keepers and ward cleaners are commission-

Horrified at the cruel sufferings and dreadful punishments which we and others have endured in this prison, on the score of Religion, we were induced to believe that we should, in the first instance, publish an account of it to the world; but conceiving, that in your Grace's prudence, some efficacious means can be adopted to inquire into these cruelties and punishments, in order to prevent their recurrence, by a respectful application to his Excellency, the Lord Lieutenant, before we publish these facts, we thus briefly submit them to your Grace's consideration, beseeching your Grace to make use of all your influence to have those unheard of cruelties abolished.

To satisfy your Grace, or any person or persons who may be authorized to examine this case, we pledge ourselves, individually and collectively, to certify the truth of what we here state, upon oath, when called upon; and that our testimony may be the more clearly proved to be correct, we most humbly pray that your Grace will solicit his Excellency, the Lord Lieutenant, to command an inquiry to be immediately instituted into the internal regulations of the Richmond General Penitentiary, and to order that the Governor, Door-keepers, Ward-cleaners, Chaplains, and Prisoners, be examined upon oath, to ascertain if what we here state be not strictly true.

Convinced of your Grace's benevolence and humanity, we shall proceed to detail a few of the horrible cruelties which have been, and still are inflicted upon the unfortunate Catholics, convicts in the Richmond General Penitentiary, to induce them to renounce their Religion, and to become hypocrites, or to profess a Religion which they despise in their hearts.

When an unfortunate convict is received into the Penitentiary, he is put into *a solitary cell* or a *locked-up ward*; emissaries are sent to tell him that "unless he be a Protestant, he need not expect any favor there;" he is also told that "there is no Catholic Chaplain in the Institution, and that there is no rule but the Governor's will." Broth and meat are brought to him for the first eight days, as the dinner food of the Institution, in order to Protestantize him. If, by the efforts of these emissaries, an unfortunate Catholic is induced, through the fear of punishment, or hope of reward, to express his consent to go to the Protestant Church, he will be let out in about a fortnight; but if a Catholic refuse to go to the Church, and desire to go to Mass, or to see a Priest, he is kept in solitary confinement for six or eight weeks, and is sometimes transported.

Manus M'Laughlin, whilst in the Penitentiary, repeatedly suffered persecution, and was put into solitary confinement, on the score of Religion, by which he got sickness which confined him in the hospital for four weeks. The same M'Laughlin, after refusing to go to the Protestant Church and having went to the Chapel, was sent from the first class to the third or condemned class, for *three* months; after the said M'Laughlin was pardoned, and went with other companions to the stores to receive the dress allotted to him, to be discharged, Mr. Algeo told him he did not deserve to be liberated, although he had been guilty of no act of depredation whilst in the Penitentiary for five years, or any particular offence, except what was considered one, of desiring to go to Mass. M'Laughlin having observed that "he kept him as long as he could"—he remanded him back to prison for forty-eight hours, although his pardon was granted by his Excellency, the Marquis Wellesley.

A man named Nowlan, having been put into a cell, to induce him to change his Religion, was confined there until he

volent, and compassionate Viceroy, and to whose humanity we owe our liberation from this *horrid Bastile.* We are then persuaded that his Excellency will command an immediate inquiry to be instituted into every thing connected with this prison: and establish a permanent Committee and Rules for the regulation of the Penitentiary, to prevent a recurrence of cruelty that we conceive to be a disgrace to any Christian country. With the most profound respect and submission,

We have the honor to be,

Your Grace's most obedient,

Humble Servants,

MANUS M'LAUGHLIN,	Co. Derry,
MICHAEL LYNCH,	Co: Cork,
JOHN CONNELL,	ditto,
CATHERINE CONNELL,	ditto,
JOHN HAFFEY,	Co. Monaghan,
PETER CAPPER,	Dublin,
THOMAS KELLY,	ditto,
JOSEPH WHITE,	Co. Dublin,
PETER BOGUE,	Belfast,
WILLIAM GAVIGAN,	Antrim,

Late prisoners in the Richmond General Penitentiary, liberated at the benevolent desire of his Excellency, the Lord Lieutenant, 20th April, 1826.

DOCUMENTS.

Letter from the Most Rev. Doctor Murray, to Colonel Shawe, enclosing the foregoing Statement.

(COPY.)

North Cumberland-street, 13th May, 1826.

DEAR SIR,

The accompanying Memorial was put into my hands, by two of the individuals whose names are affixed to it; I cannot vouch for the statements which it contains, but the individuals in question, offer to verify them upon oath. Though I can hardly give implicit credit to statements of so revolting a nature, I cannot but think, that his Excellency will consider them a fit subject of inquiry. May I then request that you will have the kindness to lay them before the Lord Lieutenant, with my most humble entreaty, that his Excellency will be graciously pleased to direct an investigation into the grounds on which they rest. I am quite certain that his Excellency will be most anxious that the Agents of his Government shall be free from even the suspicion of adding to the miseries of the unfortunate prisoners, the infliction of Religious Persecution.

I have the honor, &c. &c.

Signed, D. MURRAY.

To Colonel Shawe, &c. &c.

Reply to the foregoing Letter.

(COPY.)

Dublin Castle, 22d May, 1826.

SIR,

I am directed by the Lord Lieutenant to acknowledge the receipt of your letter, of the 13th inst. enclosing a Petition from several persons, late prisoners in the Richmond Penitentiary, complaining of ill treatment, and am to acquaint you, that his Excellency has directed an inquiry to be made into the facts stated in said Petition.

I am, Sir,

Your most obedient, humble servant,

Signed, W. GREGORY.

The Most Rev. Doctor Murray,
North Cumberland-street.

(COPY.)

Dublin Castle, 14th June, 1826.

SIR,

A Memorial having been submitted to the Lord Lieutenant, by the Most Rev. Doctor Murray, from several persons lately prisoners in the Richmond General Penitentiary, complaining of ill-treatment which they received during their confinement, and praying an Investigation,

I am directed by his Excellency to request that you will, in conjunction with the Inspectors General of Prisons, proceed and investigate the charges alluded to, and report the result, with your opinion thereupon, for his Excellency's information.

I have the honor to be, Sir,

Your most obedient humble servant,

W. GREGORY.

John S. Townsend, Esq.

(COPY.)

Dublin Castle, June 14, 1826.

Gentlemen,

I am directed by the Lord Lieutenant to send you a letter from the Most Rev. Doctor Murray, transmitting a Memorial from several Prisoners in the Richmond General Penitentiary, complaining of ill treatment, which they have received during their confinement, and praying an investigation.

And I am to signify his Excellency's desire, that you will, in conjunction with Mr. Townsend, proceed and investigate the charges alluded to, and report the result, with your opinion thereupon, for his Excellency's information.

I am, Gentlemen,

Your most obedient humble servant,

W. GREGORY.

The Inspectors General of Prisons.

P. S. I am to request you will give notice to Doctor Murray when you will proceed on the investigation, in order that the accusers may attend, and you will also apprise Mr. Rowan.

(COPY.)

Major Palmer presents his respects to the Most Rev. Doctor Murray, and has been directed by Government to state, that the Investigation of the Charges against Mr. Rowan, Governor of the Richmond General Penitentiary, will commence on Monday next, at 11 o'clock, before Mr. Sealy Townsend, K.C., and the Inspectors General of Prisons.

It will be necessary that the persons who signed the charges, transmitted by Doctor Murray, should receive notice to attend, with their evidence, to substantiate them.

Inspectors' General of Prisons' Office,
41, Leeson-street, July 6, 1826.

(COPY.)

Messrs. Kemmis and Carmichael present their compliments to the Most Reverend Doctor Murray, and have the honor to inform him, that the Investigation directed by his Excellency, the Lord Lieutenant, upon the charge of Manus M'Laughlin, and nine other persons, now or lately prisoners in the Richmond General Penitentiary, will commence at the Penitentiary, on Monday next, the 10th July, instant, at eleven o'clock in the forenoon, before J. S. Townsend, Esq., K. C., Major Palmer and Major Woodward, Inspectors General of Prisons; and they have the honor to request the Archbishop will take the trouble of informing them whether there are any individuals in addition to persons at present confined in the Penitentiary, whose attendance he may think necessary upon the Investigation, for the purpose of giving evidence, or for any other purpose; if so, he will please to notify the names and residence of such individuals to Messrs. Kemmis and Carmichael, and they will give them notice accordingly.

They beg to add, that if the persons who preferred the charges be not in the Penitentiary, Messrs. Kemmis and Carmichael are ignorant where they may be found: they will, therefore, take it as a favor if the Archbishop will have a notification of the Inquiry conveyed to those persons, or be so good as to apprize Messrs. Kemmis and Carmichael of their present residence.

Kildare-street, 5th July, 1826.

MINUTES

OF

PROCEEDINGS, EVIDENCE, &c. &c.

First Day—Monday, July 10, 1826.

THE Commission authorized by the foregoing Instructions, opened on Monday, July 10, 1826, at the RICHMOND GENERAL PENITENTIARY,

PRESENT,

JOHN SEALY TOWNSEND, Esq. K.C.

Majors WOODWARD and PALMER, Inspectors General of Prisons,

ANDREW CARMICHAEL, Esq. Crown Solicitor.

H. W. ROWAN, Esq. the Governor, and the under Officers of the Penitentiary,

Messrs. HIGGINS (the Protestant Chaplain) and O'DONOVAN (the Roman Catholic Chaplain),

A. DUNNE, Esq. Counsel, and T. I. DOLAN, Esq. Agent for the Memorialists,

A Note-taker at each side.

The Memorial transmitted by His Grace, the Catholic Archbishop of Dublin, to his Excellency the Lord Lieutenant, was read, as also the Instructions from the Government.

Mr. Rowan inquired if he was to consider Dr. Murray as the Prosecutor in this case.

Mr. Dolan, Agent for the Memorialists, said, that to show the character in which Dr. Murray appeared in this matter, he would read Dr. Murray's letter to Colonel Shawe, forwarding the Memorial to the Lord Lieutenant—Dr. Murray's letter was read.

Mr. Rowan stated, that as it appeared the other side was prepared with Agent and Counsel, he would require an adjournment until to-morrow, to instruct Counsel.

Second Day—July 11.

On the sitting of the COURT this day, Mr. Dolan, Agent for Complainants, required a copy of the printed rules that were instituted for the regulation of the prison.

Mr. ROWAN (the governor) replied that there were no printed regulations.

Mr. DOLAN said, that in the time of the former Governor there used to be rules of this kind, probably a copy of these rules of Mr. Holingsworth's might be produced.

Mr. ROWAN said, he was not aware that there was any such copy in the prison; at all events, they were no more than the regulations of a former governor. The laws made for this prison were not immutable: he (Mr. R.) recollected that there were, when he came into the government of the prison, rules signed by Mr. Hollingsworth; however, he (Mr. R.) not thinking they were applicable to the government he intended to adopt in the Penitentiary, did not inculcate them. (A copy of a portion of the printed and written rules referred to, was found, and here produced.)

Mr. BLACKBURNE, who appeared as Counsel for Mr. Rowan, proposed that the Investigation should be conducted without the assistance or presence of Counsel or Agent on either side.

Mr. DOLAN said he would agree to forego the assistance of Counsel, but that he could not waive his right of being present at the examination.

Mr. BLACKBURNE said, that all the purposes of the Complainants could be answered by the Commissioners themselves examining the witnesses.

It was subsequently agreed by Mr. Dolan that the inquiry should be conducted without the presence of Counsel or Agent, provided Mr. Dolan was at liberty to examine the witnesses before-hand, and send in to the Commissioners an abstract of their testimony, as in the case of criminal informations, and was furnished with an apartment for that purpose. This was acceded to, and Mr. Blackburne, Mr. Dunne, and Mr. Dolan then retired.

Pat. Carey, sworn, and examined by Mr. Townsend, K.C. Judge.

Is a convict; was brought this day from the *Essex* hulk, Dunleary; was a prisoner in the Penitentiary; was put in on the 18th September, 1823; was convicted on the 16th August, 1822, at the Cork Summer Assizes, remained here until April 12, 1826; complains of hardship suffered here; states that on November 23d last, the governor, Mr. Rowan, considered his (witness's) conduct entitled him to be in the first class of convicts; was in that class for about three months; means by the 1st class, those who have been best behaved. On the 23d November there were some reports sent in against two or three boys who worked in the same shop with

witness, who, as well as they, is a carpenter; the report was for neglect of work and insolence to the officer, and was made by the officer in charge. The governor ordered an investigation into the complaint, and sent for witness to be present at it. The governor hearing the defence of some of the men, rebuked them, saying, that their words or their oaths would not be believed in a Court of Justice, that he would prefer the report of an officer to their declaration, as their characters were branded with infamy and disgrace, and that they were outcasts of society; at the same time the governor made a remark that he did not apply his words to all those present; he said there were some he considered well behaved and reclaimed men; witness being of the first class, thought the exception made by the governor applied to him (witness.) On the close of the investigation referred to, witness asked the governor if he had any complaint to make against him? The governor in reply said, "Carey, you have no right to propose such a question to me; know who you are, where you stand, and who I am." Witness replied that he *did* know where he stood, and where he was, and that he was made a slave of with work, and got no credit for it. The governor replied, that he (governor) would take care that he (witness) should work less. Witness said he did not care. The governor ordered him out of the room, and said he would make an example of him; means by "not caring," that he did not care whether he was put away from the work, as he could not agree with the man who was put over him. The governor was aware of the disagreement, for he once before put witness away for it. The governor mentioned before Mr. Flanagan, the officer of the division, and Mr. Algeo, superintendent, that he (governor) would make an example of witness; thinks the reason of Mr. Rowan making use of that threat, was the expression which he (witness) used, as he gave him (governor) no other cause for making it. Told Mr. Rowan that he did not care what punishment he would inflict on him; that he did not care if he were sent off to Botany Bay, as he was tormented. Mr. Rowan then ordered Mr. Algeo to remove him to his division, his division was the first class; Mr. Algeo took him and locked him up in the range or passage, not having the key of the proper place. Governor then left witness. Mr. Croften came then to settle the men's accounts, and witness appealed to Mr. Crofton, to whom he told the circumstance, if he (witness) had misbehaved that day? Mr. Algeo came and told witness that the governor had ordered him to be reduced to the third division, and to get nothing but bread and water. Witness was then removed to a place of solitary confinement, which was called the "Piggery," away from all the other prisoners. There were then oak handcuffs, which he (witness) was himself instrumental in making, put on him; and there was for all this no provocation, save what he has stated. The handcuffs were so weighty that witness strove to get them off, and succeeded. A keeper named Haige discovered that the witness got them off; witness kept them loosely on his hands to avoid discovery before

he was detected. The handcuffs were speedily repaired, and again put on his hands. Witness felt unwell, and Mr. Neary, the apothecary who visits prisoners in solitary confinement, came to see him next morning. Doctor Orpen the physician, came the morning after along with him. Doctor Orpen found it necessary to give witness medicine. About an hour after witness went into hospital, Mr. Algeo came to witness and said, that the governor thought it proper to remove witness from that "Piggery" to another more secure place, in consequence of witness breaking his handcuffs. Was accordingly removed by Mr. Farmer, Mr. Algeo, and another Keeper whose name he does not know, to another place of confinement of the same nature, where there were stocks, which witness was also instrumental in making, and for making them was punished severely. In this place there was straw which was used by the prisoner who was there before him (witness.) This was in November; was put into the stocks; witness's feet were dreadfully cold, and he took off his shoes to endeavour to warm them; could not again put them on. Mr. Green, one of the officers, came in and he assisted him. Mr. Green expressed commiseration in the condition of witness. Witness requested Mr. Green to go to Algeo, and ask him for a blanket. Mr. Green afterwards told witness that Algeo would not give it to him. This was on Sunday week; was removed to the "Piggery" on Wednesday. It was on Sunday witness was removed to the "Piggery" where the Stocks were. Was in a very bad state all night, and Mr. Neary (apothecary) came to visit him in the morning. Told Mr. Neary, that he was very cold all night, and begged of Mr. Neary to get him something to cover himself with. Shortly after Mr. Neary went, Mr. Algeo came to witness, and said, that the governor thought proper to release him from the stocks, thinking the handcuffs were broken accidentally. This was on a Monday. The handcuffs were taken off, when he (witness) was put into the stocks, told they would be again put on as soon as the medicine would operate, which had not then occurred; that night, (Monday) there was a bed given to witness, and he had no stocks or handcuffs on him that night. The next morning they were put on, and continued until three or four days before he was released from that close confinement, which was about December 10th. Believes he was confined for eighteen days, from Nov. 22d or 23d to December 10th. The diet for fourteen days of that time, was bread and water. When released from confinement, was removed to the third class, but was still in solitary confinement, save an occasional half hour which he was allowed, if the day answered, to exercise.

Mr. ROWAN (the governor) here explained the difference between the two kinds of solitary confinement; the term "Solitary Confinement" is applied to a residence in the "Piggery," where there is no communication whatsoever with other persons. Confinement in the third division may more properly be distinguished by being called "*Solitude*," as it is not entirely solitary confinement.

Examination resumed.—Was only one night in the Stocks; re-

mained in the third class from the 23d Nov. to the 28th Feb., when he was rated on the second class; that is, he was nominally on the second class, but absolutely retained on the third class. (Here witness begged pardon of the Court for being obliged to recur in his evidence to circumstances anterior to this); witness had received a letter from his father, stating, that he had heard that he (witness) had changed his religion, which he was when he first came into the prison, and had become a Protestant. That was true; witness did become a Protestant in May or June, 1824; that change had occurred before he was put in the stocks; his (witness's) mind was very uneasy at receiving his father's letter; witness's father is a Roman Catholic; witness returned the letter to the governor.

Mr. ROWAN here remarked, that the rule regarding letters was important—all letters are read by him, or by some competent person. If they are mere idle gossip he does not give them to the prisoners; if they contain any information of interest, such as an account of one's relations, he (the Governor) gives the letters to them. However, giving letters is a reward for good conduct; if their conduct be good and irreproachable, the prisoners are allowed to receive all letters, they being first read, and they themselves are permitted to write every three months. If their conduct be bad, their letters are kept back for three months. This fact, regarding this letter, ought to be kept in mind, for if the statement of witness be true, it proves that he (Mr. Rowan) was disposed to act fairly towards witness.

The COURT here intimated to Mr. Rowan, that this was no time to enter into a defence. The Court said that it was necessary that any explanation given during the progress of the Investigation should be in the nature of *evidence*, as it was not right that stray observations, unsupported by some solemn obligation, and which might leave an impression, should be made. The Court then ordered that Mr. Rowan, and the Rev. Messrs. O'Donovan and Higgins (the Catholic and Protestant Chaplains) should be sworn to give true answers to all questions the Court might ask during this Investigation. They accordingly were sworn.

Examination resumed.—Witness was very uneasy in his mind on account of his father's letter, and about the 10th of February last, being moved by it, communicated to Mr. Somerville, a keeper, his (witness's) wish to return to his religion, and said for that purpose, as it was the rule, he wished to see the governor, Major Palmer, and Mr. O'Donovan the chaplain. This was on a Sunday. Somerville made no answer to witness; they were walking through the yard at the time; Somerville then locked up witness; after his half-hour next morning, witness asked Somerville if he reported what he (witness) had stated to him; Somerville replied that he did not, as he had too much to do that morning; made no further remarks to Somerville, but continued to go to Church, thinking it was so near the time when he would be removed from

the third class to the second, for his good conduct. Was accordingly removed on April 2d; was reduced from his own trade and made a cleaner; told Mr. Algeo one day that he was unable to work in that capacity, owing to infirmity; Algeo said he did not know what to do, as the governor was determined that *he* (witness) should not work at his own trade; witness begged he would either be set at liberty and put to his trade, or sent to Botany Bay; Algeo asked him did he wish to go to Botany Bay, and witness replied, "that he was perfectly satisfied and wished to go." At this time it was November or December; the clothing was very bad, and the cold was excessive; the clothing was due November 1st, but it was not issued out until near the Annual Inspection in January. Algeo told witness that he was of opinion if a respectful application were made to the governor, he would send him away. Witness was not as usual liberated in the morning, but directions were given that he should be kept in his ward until about ten o'clock, when the governor would come down to see him; witness said in the morning when he saw Algeo, that he hoped he did nothing then deserving of punishment; Algeo said that the governor only desired that he (witness) should be kept in the ward, until he saw him, from all intercourse with the other persons, as he was not fit to associate with them. Did not get his breakfast that morning as usual with the other prisoners; got his breakfast after them, and ate it; was not allowed to go to Church; witness was speaking to a man confined in the same ward, and this was reported; witness admitted to Mr. Algeo that he was speaking; Algeo said that the Governor had ordered him to be removed from that Division to the division of the officer who had reported him; and that he should have his hour until the governor saw him. This was promotion; but except for the hour witness was entirely confined to his ward; this was on Tuesday or Wednesday; was removed on February 12th, to Mr. Hume's division; wished to see the governor, but he did not come; remained some time confined in the second class. The governor did not come; and when witness asked Mr. Hume, the keeper, why did not the governor come, when he (witness) reported that he wished to see him, Hume said, that if the governor were to attend to every thing of that kind, he would not have an hour in the day; witness then said, that he was inclined to return the Prayer-book and Testament, as he wished to embrace the Catholic Church. Witness expressed a wish to see the governor, Major Palmer, and Mr. O'Donovan, but they did not come. Was for six weeks and had no opportunity of making his case known; was denied the society of his fellow-prisoners; had no opportunity until the day before he was removed from the prison; Mr. O'Donovan then came in accidentally; witness said he much wished to see him (Mr. O'Donovan) and that he had reported for him; Mr. O'Donovan said, that he had heard nothing of such report, and that he then could have no communication with him, as he (witness) was not of his persuasion. Witness then ex-

pressed a wish to Mr. Hume that, according to the prison rule, his (witness's) wish to see Mr. O'Donovan should be reported. Hume said, that he had before done all he could do on that subject, and that he had twice conveyed a report to that effect. On the following morning, about six o'clock, was awakened out of bed, clothed, and sent off to the hulk; before he went he asked Mr. Algeo was he not to get his earnings, and whether he was to go to Cork or Dunleary? was told he was to go to Dunleary; witness expressed his sorrow for that, as if he were to go by Cork he would see his father, whom he had not seen for a long time, he having been four years convicted; expressed great grief at not getting his earnings, as there were upwards of £13 due to him, and he never did any thing violent, or tending to a violation of the rules, but breaking a pane of glass, in cleaning it, for which he was charged ten-pence.

Mr. ROWAN begged to explain—It was the rule to charge for glass broken, so frequently did accidents of that kind occur. It was formerly a rule that 10d. should be paid for each pane, and if not reported the officer should be charged with it. This regulation did not answer on experience, and the rule was altered. Now if a pane of glass were broken, the prisoner breaking it would be confined for 24 hours on bread and water. This treatment has had the desired effect, scarcely one for the hundred formerly is now broken—money not paid to the prisoners for labour goes into the general fund.

Examination resumed—Became a Protestant in the prison, from the conviction that in the prison, what might be considered crimes, would be overlooked if he were a Protestant; and he saw other religions in the prison more encouraged than the Catholic. The Protestants were better treated—this superior treatment of them was confined to the overlooking of their offences; witness also thought he could return to the Catholic Church. There was a boy in Mr. Wm. Bailey's division, whose name he does not remember, but would recollect if he heard the list read—(witness looked towards the list of names, but it was not read)—witness proceeded: Moriarty, now in the prison, also expressed a wish to see Mr. O'Donovan, and to return to the Catholic Church, but did not see him; it was the general intention of those coming into the prison and becoming Protestants, to be Protestants only in appearance, and this was done for the purpose of securing comfort to themselves. They intended to be Protestants in the prison, and afterwards on their liberation to again enter into the Catholic Church; it was their opinion that they would be better treated as Protestants; their conversion was not owing to any arguments used to persuade them, but to their own conviction of the profitableness of becoming Protestants; heard one man say he was offered five guineas if he would become a Protestant; thinks although there may be some persons sincere in their conversion, the generality of converts only pretend to be converts; heard the governor on one occasion say that he was a Protestant and that he wished every man was the same. This occasion was that whereon witness expressed his wish to be-

come a Protestant, and then the governor made the observation, adding at the same time that he did not wish to force any person. Mr. Higgins was present; heard the governor say the same thing on another occasion, when it was reported in the gaol that the Catholics were getting their liberty more than the Protestants; the Protestants did not like that; it was in answer to the complaints of the Protestants that the governor said he was a Protestant; the Protestants were kept in the prison in order to be well grounded in their religion—(witness here addressed the governor and said that he had admitted there was money due to him for wages, and claimed the benefit of it).

To a question from Rev. Mr. O'DONOVAN—It was two months from the time witness expressed a wish to see Mr. O'Donovan until he saw him in the yard. Witness was airing himself in the yard for an hour that day; Mr. Hume the officer was present; Mr. O'Donovan told witness that he could have nothing to do with him—(The Court here complimented Mr. O'Donovan on the delicacy he evinced in not interfering with a member of a different communion.)

Examination resumed—Wrote two notes to Mr. O'Donovan privately; wrote one of them with blacking; this was about a month before he saw Mr. O'Donovan in the yard; told him (Mr. O'Donovan) that his eternal salvation was at stake unless he returned to the Catholic Religion; both of the notes were to the same effect.

Mr. O'DONOVAN here remarked that he had received them.

Examination resumed—Witness had prepared a third; none of the officers of the establishment knew of these notes having been written; the third note, as witness before stated, was detected. Mr. O'Donovan told witness if he wanted him (Mr. O'D.) to desire Mr. Hume to report for him in the morning; witness told Mr. O'Donovan that he did frequently report for him through Mr. Hume; Mr. O'Donovan replied that *he* never heard of those reports—Mr. Hume said he gave in the reports—Mr. O'Donovan said he never heard of them; Mr. O'Donovan concluded by desiring witness to report for him, and that he would attend him on the following morning. Witness without notice was taken out of his bed, on the following morning, and sent off to the hulk; first told a man of the name of Murray, a fellow prisoner, of his wish to become a Protestant; in about a week after that witness was appointed a "cleaner;" witness told Murray of the appointment, and Murray, who was always a Protestant, said that if he did not become a Protestant he would not get that indulgence, and recommended him to continue a Protestant; thinks he was appointed cleaner for his wish to become a Protestant; thinks if he remained a Protestant he would not have been sent off, but witness's mind was in such a state he could not help it.

Witness was here ordered to retire.

Mr. ROWAN (the governor) addressed the Court and argued upon the hardship to him of permitting the inquiry to proceed, as it was likely to do. He understood that the Court were to inquire solely and specifically into one fact, namely, whether the means stated by

the complainants to have been used in the prison were used for the purpose of proselytising Catholic prisoners.

Mr. TOWNSEND concurred in the opinion of Mr. Rowan; the Commissioners were to inquire, whether cruelties and compulsion were used, to induce the prisoners to change their religion. The Court were not authorized to enquire into the general management of the prison.

Mr. DOLAN (Agent for Complainants) said, that he was instructed to lay before the Court a body of evidence tending by circumstances to establish the charge of Proselytism, and he submitted that it was by permitting the production of evidence, which, *prima facie*, might *not* appear to bear distinctly on the case, that the allegations could be proved. Mr. Dolan stated, that he could not be expected to search into Mr. Rowan's breast, and give evidence of the motives which existed there and which influenced him. All he should prove would be a series of facts followed by a certain result. He would then call upon them in the words of the Lord Lieutenant's letter, "to report their opinion upon the evidence." It was a conclusion they were to draw from certain facts, and the opinion he would call on them to form from those facts was, that the acts had been done *with a view* to make Proselytes.

Mr. ROWAN adverted to the situation in which he was placed. He did not know in fact who was his accuser; it appeared that Mr. O'Donovan was, and certainly the manner in which he cross-examined the witness, and put to him leading interrogatories, was unfair and—

Mr. TOWNSEND interrupted Mr. Rowan, and said that he thought it all fair and just that Mr. O'Donovan should be a prosecutor, if there were grounds for his proceeding in that character. Mr. O'Donovan was the natural guardian in this prison of the Catholic Religion; he was delegated to watch over the members of his communion by the Supreme Head of his Church, and it certainly was his duty to defend, by all just means, what he considered to be the interests of his Religion.

The conversation here terminated. The prisoner was remanded until to-morrow, in order to give Mr. Rowan an opportunity of examining him if necessary.

Court adjourned.

Third Day—July 12.

Mr. TOWNSEND enquired of Mr. Rowan if he wished to examine the witness Carey, who was yesterday before them ?

Mr. ROWAN was proceeding to state the reasons why he should ask no questions of that witness, who, he thought, had not proved any thing in the evidence, but was interrupted by the Court, who remarked that Mr. Rowan was not then called upon to enter into his defence.

The witness was ordered to be removed.

Mr. DOLAN (Agent for the Prosecution) here entered.

Mr. TOWNSEND (to Mr. Dolan) I believe we shall deny ourselves the pleasure of your company to-day.

Mr. DOLAN—If I be not permitted to remain I should wish to make such arrangements for the Prosecution as I think are quite necessary, and as were agreed to when I waived my right of being present at the examinations. I will leave a list of interrogatories which I wish to be put to each witness. It will be also necessary that I should have access to those witnesses that are now in the prison, in order that I may arrange my evidence. I would thank the Court for an order to be permitted to see Gray, a prisoner.

Mr. TOWNSEND—Is he one of those mentioned in the paper ?

Mr. DOLAN replied in the affirmative.

Mr. TOWNSEND—We cannot allow that, the less communication with those persons the better. You can merely mention the names of such of those persons as are in the prison.

Mr. DOLAN retired.

Mr. ROWAN—I wish merely to make an observation, with great deference to the Court. I do not mean to impute motives, but I am quite sure that I am the person charged—still I am not unwilling to allow all evidence necessary to substantiate truth, and to avoid every thing like frivolous objection. It was a rule laid down yesterterday that witnesses should not be asked questions that were irrelerelevant; and nevertheless the person already produced, although not credited by the law, although being, *a priori*, from the fact of his being a convicted felon, not trustworthy; was asked questions even as to his opinion. I did not interfere to prevent this mode of examination then; but I now wish to protest against it; I have two parties to justify myself to, the Government and the Public. If the Government were alone concerned, the evidence delivered could not be at all prejudicial to me, as the Court knows how to separate matter of belief or hearsay, contained in the evidence, from what professed to be facts; and the Court had been pleased to say that such testimony would have no weight whatsoever with it. Thus even though the Public would be put accurately in possession of what occurs here still the Public would take a prejudiced view of the proceedings. The whole case will go before the Public; they will read certain allegations made

by certain individuals without considering who those persons were, and will lay a stress even upon their belief, while not a question will be asked as to their credibility. The Public are not fit judges in such a case; certain effects in this prison are to be produced by certain means of discipline; and the Public, ignorant of the manner of producing these effects, will judge of the means, of which, hitherto, I have been considered to be the best judge.

Mr. TOWNSEND was of opinion that for the sake of Mr. Rowan himself, the case should undergo very minute investigation; and that those who made the complaint should be permitted to state what they conceived to be the motives which led to the punishment they had received: if the explanation of those motives should be groundless or defective, the case would be entirely in his favour. This case could not be tried by the strict rules of evidence, for if so, the evidence they had already produced would hardly be received; the Court would judge of the credibility of the witnesses, and report accordingly.

Mr. ROWAN repeated in substance his former observations; he said that on yesterday he had understood the inquiry would be specific, and referential to the complaints, charging acts of cruelty, in connection with proselytism; but he now thought the object was to examine into the discipline of the prison, and arraign every act of his. Now the Public would judge of those acts when they came to meet their eye, with very improper feelings; they would not consider whether the measures used in the discipline of this house were worthy of producing the end. He (Mr. Rowan) said, that if the inquiry were not specific and limited, he would not be able to set his character right with the Public.

Mr. TOWNSEND said, he could not at all agree in that opinion; the more the Court heard the better: the Court listened to all that was alleged, and believed as much as they pleased. The Court certainly looked upon the persons coming forward in the light of approvers, and would think their evidence stronger if it were supported.

Mr. ROWAN hoped he would have all the benefit of that consideration and indulgence that a man placed in his peculiar circumstances required. He adverted to the circumstance of his being yesterday sworn; and said, that it was embarrassing while he was acting as the conductor of his own case, as he would at different times be placed in different situations; at one time be interrogator and investigator, and at another time a witness; not being aware of the distinction at times, he might, while acting as an investigator, give an answer lightly or without consideration, that would afterwards become testimony. He (Mr. Rowan) would be glad that some means could be taken to obviate this.

Mr. TOWNSEND did not know how to meet Mr. Rowan's views unless by cautioning him when he was before them as a witness.

To this mode Mr. Rowan assented.

The COURT instructed Mr. O'Donovan, whose ignorance of juridical matters made him unacquainted with the rules of evidence, not to put leading questions; the nature of which was satisfactorily explained to him. The preliminary arrangements here terminated.

Peter Capper sworn and examined by Mr. Townsend.

This witness, on being sworn, said, that before he would answer any questions, he would say that he did not expect justice from any person who once refused to hear his complaint in the prison, although he asked him, and although it was his duty to listen to every complaint offered to him.

Mr. TOWNSEND—Whom do you mean?

Witness—Major Woodward.

Mr. TOWNSEND observed to the witness that he and the other two Gentlemen were appointed to hear his complaint; if he did not choose to make it he might retire.

The witness said he would, at all events, tell what he knew respecting any business he was interrogated upon.

Examination proceeded on.—Was a prisoner in the Penitentiary in July 1821; was discharged 20th April last; got a pardon; was tried in Green-street; does not know who recommended him to be pardoned, if it were not the governor of this house; had no more than supposition to make him think so. While a prisoner had grievances to complain of; the religion of his father and mother was the Catholic; he came here a Roman Catholic, and continued one; he had been tampered with to induce him to change his religion; the commencement of this interference was after coming from the hospital, after having a fever; thinks the time was two years last April; it was about a year after the present governor came here; Moriarty, who is still a prisoner, asked witness to change his religion; Moriarty at that time was a Protestant, but had been a Catholic; witness told him he would not; after that Moriarty struggled in every way he could to get witness punished. Was reading the Scriptures a considerable time after that, perhaps the winter following; was reading a portion of St. Paul to the Galatians, where he says, "Others of the Apostles I saw none, except James the brother of the Lord"—Mr. Wood, the schoolmaster, wished to impress on witness that he (James) was the Virgin Mary's son, which witness refused to believe; witness said it was no such thing, and he would not listen to it; Wood asked witness *his* meaning of the passage? witness said in reply, that *he* was allowed to take no meaning out of Scripture; nor would he, he said, give any meaning to it, nor listen to his (Wood's) meaning of it; so that he (Wood) shut the book and went away. Next day the governor came up, and he desired Mr. Wood to read the

verse of the Scriptures for him; that particular verse—Wood did so, and the governor said, "Capper, this is disobedience of orders;" and, said he, "it is a thing that I cannot look over." The governor then desired Capper to explain his belief of the passage, which he did, and it was the same as that given to Wood on the former day. What the governor said was "disobedience of orders."—What witness supposes he meant by that phrase was, his (witness) not listening to Mr. Wood's explanation of the Scriptures; Mr. Algeo then endeavoured to explain to the governor what the opinion of the Roman Catholics of Spain was about the Virgin Mary.

The examination was here interrupted by Mr. Rowan asking the Court was he obliged to give the Agents for the Complainants a room in the prison to examine his witnesses in: he certainly would not allow it unless the Court insisted; the room should only be occupied by the examination of such witnesses as were in the prison.

The COURT did not appear to well understand the object of making the objection, at the same time Mr. Rowan was given to understand that he could in that particular, use his own discretion.

Mr. ROWAN said he certainly would not allow it, and retired, for the purpose of preventing the accommodation from being afforded to the Agent for the prosecution.

Examination resumed.—Algeo was explaining about the Catholics in Spain, and their opinion respecting the Virgin Mary, when the governor turned round, and said, smiling, that *his* opinion was different; the governor then walked away, and, as he was going out of the room, he said "Capper, this is a thing I cannot look over." Witness then got five days upon bread and water, commencing the next day; remained in his class; was not reduced to any other place. There was another time when he heard the governor saying in the room, that any books that the two chaplains of the establishment agreed upon, should be allowed into it, so that he (Capper) then asked him for a book called "THINK WELL ON'T." Governor asked him what did the book consist of? witness said it treated of the pains of hell, and the joys of heaven. Governor asked was there any one in the house who had a copy of it? Witness said, Tom Kelly had a copy of it; governor went to Tom Kelly and got a book; the Sunday following the governor came up to him, (does not recollect when this was—does not think of it—it is a long time ago—it was not this year, nor he believes last year)—he came up and said, "Capper, as to the book you were speaking to me about, there are opinions contained in that book which are erroneous, but if I meet nothing worse than what I have met, I will allow you the book;" never heard a word after about the book. Was another day last summer sitting at the fire with Andrew Little, the reason of sitting by the fire in summer, was, that he had bad shoes, and could not go to work; Little had a book called Baxter's Work; it was a testament, with explanatory notes; Little asked witness where was Lazarus's soul, while his body was in the grave? Witness replied

that he would suffer if he gave any explanation about it; Little is a Protestant, and a prisoner; Little asked witness for some meaning to it; witness on being pressed for a meaning, said, he thought Lazarus's soul was in Purgatory; Little then fell to explain what Baxter said in his testament on the subject; Little then went to the Revelations, and began to read about the Pope being Antichrist; there was no one present during this conversation; witness was at the time after coming out of his ward, having taken medicine; witness on hearing what Little said about the Pope being Antichrist, walked out; was not very long in the kitchen after that, when Mr. Haige an officer of the prison began at witness about his religion.

Mr. TOWNSEND—What learned conversation in a prison!

Haige then brought out a book, written by Gideon Ouseley, and pointed out to witness in the book, an account of four Popes having reigned together at one time; witness did not know what to say to this, but was very vexed; told Haige he would ask Father O'Donovan about it; on the following Sunday, witness asked Father O'Donovan on the Altar, what year did the four Popes reign at once; Father O'Donovan asked witness who told him that, and on hearing who it was, said, smiling, Oh! do not mind what that fellow says; at another time, during last summer, Haige was in the kitchen, (Haige was then a porter, but when witness left the prison, he was an officer over a division of prisoners) and he brought up the subject of the Virgin Mary and of St. Joseph, not knowing of her conception until she was delivered of her first-born son; Haige at this time had Baxter's book in his hand; Haige then went on to the marriage of Canaan in Gallilee, where the Blessed Virgin wanted our Saviour to change the water into wine, and he began to explain Christ's answer to his Mother—"*What have I to do with thee, woman, my hour is not yet come.*" He had one of those numbers of this controversial work of Ouseley's, and he read what that book said on that text; now, says he, we will see what Baxter says on the subject. Haige asked Little would he give him (Haige) a loan of the book (Baxter's); Little gave the book to him, and he (Haige) read his comments; witness told Little, that that was not a proper book to have amongst Roman Catholic prisoners; the subject was then dropped for that day. Another time, when in the first class, last winter, asked Mr. Wood, the schoolmaster, for a book, as he was in the habit of giving them; asked for a history of some kind; wished for Captain Cook's Voyages, if it could be possibly procured; Wood brought down a little book or pamphlet, which was a book against *Transubstantiation*; witness read a little of it, a couple of pages of it, but finding what it was, said to himself, I will give this book to Father O'Donovan, and keep it for him until he comes;" witness gave the book to Father O'Donovan; Father O'Donovan asked witness, who gave it to him; witness said it was Mr. Wood. On another day, was lying unwell, Morrisson (who was a

a reformed Catholic, who had turned to the Church of England, was then a prisoner, although since, he got his liberty with witness;) came in, and had a little pamphlet in his pocket—(Witness here identified the book,) it is entitled—"*Differences between Protestantism and Popery, briefly stated*" (marked [A.] in Appendix); gave it to him dirty; when witness saw the book, he said it (the book) was contrary to what the governor said, when he asked him for *Think Well On't*, and that he would keep the book above mentioned. Pat. Murtagh and witness were on Saturday walking up in the range; Paddy Connor, who was a prisoner then, and witness believes is still a prisoner, and who turned to Church from being a Catholic, was there; Mr. Wood called Murtagh away, Murtagh went to him; when they (Wood and Murtagh) were done speaking, Murtagh came to witness and told him, Mr. Wood said he would rather than £100 he, (Wood) did the same as Connor; witness said he would never do that; that he was bred a Roman Catholic, and would remain so; there the conversation dropped; Murtagh did not say that Mr. Wood bade him make that communication. On another day, two years this summer, (Sunday) all the prisoners in the second division were ordered up to the room to hear Mr. Algeo read a chapter in the Bible; witness then belonged to the second division; service was over in the Protestant Church at this time, and also over in the Chapel; the Morning Service in the Church was over, for there is Service morning and evening. There was a boy named Jeremiah Coghlan, who was since transported, who "reported" the day before that to see the Priest, he had conformed to the Protestant, from the Catholic Church; but wanted to see the Priest to go back again: Mr. Baily was witness's officer at that time, the "report" for the Priest was not attended to; witness was present when Coghlan made the report to see the Priest; Mr. W. Baily told Coghlan bluntly, twice or three times, that he would not "report" for the Priest for him to return; the prisoners went up to hear Mr. Algeo read; witness asked were the Roman Catholics to go in? Yes, said Mr. Baily, every one in my division must come. Witness said he would go up, he said he had no objection to hear a Chapter in the Bible read, but he would not hear it explained; Mr. Algeo then read about four verses, and began to explain them; witness then was about rising to go out, but thinking such a step would be disobedience of orders, he stopped until he (Algeo) was done; Coghlan was confined in a cell where Algeo went, and he was asked was he for seeing Mr. O'Donovan, and he Coghlan, then said that he was not, as he would continue to go to Church; Coghlan was then let out of a cell by Algeo, where he was confined, for refusing to go to service.

Mr. ROWAN—Coughlan being then a Protestant, it will be remembered—

Witness—Aye; but wishing to go to Mass if he were let.—Pat. Ward, who was a Catholic, but conformed, was confined and

was asked by the governor in the hearing of witness, if there were any foul countenance shewn to him, or any bad treatment given to him by his fellow-prisoners, who were Catholics? Ward said there was not; the governor said he was very glad to hear it. Governor then said, "My lads, I have one thing to say, and I wish you all to know it, I am myself a Protestant, and I wish that every other person in the Establishment was like myself." There was no more said that day. After being a good while in the first class, was attending the Priest at Mass, and one Sunday heard a female, Mary Frazer, out of the top gallery making a most grievous complaint to Mr. O'Donovan of the governor—(witness was prevented from alluding to the complaint, as the woman, Mary Frazer, was in the list of witnesses to be examined now)—That same Sunday evening the governor came up and said, my lads I have one remark to make, with respect to that woman Mary Frazer, who was making a complaint of my hard usage, to Father O'Donovan, particularly about my using her harshly on account of her being a Roman Catholic, I will make her suffer. Governor then made another remark as to his being a Protestant, and of his wish that all those of his Establishment were Protestants, such as he made on another occasion, before the complaint was made in the Chapel openly. After being for about a day in the First Class, Stephen Henrick, another prisoner still confined, called witness; Henrick brought witness into his ward; Henrick was a Roman Catholic but conformed since he came into the prison. When Henrick and he, witness, were a while in the cell, Henrick said, Now Peter if Mr. Wood asks you any question about going to Church do not answer him roughly.—"Why so?" witness inquired, adding "I would have answered him roughly, but as you advise me I will only smile at him." Henrick said, "you would never have got to this division only it was thought you would have become a Protestant." Mr. Wood never asked witness. Last year about the beginning of winter, when the prisoners got the new clothing, they got it to wear on a day when the Inspectors were here, and it was taken away the next; has no more to say on the subject. Witness wished on a Sunday about this summer two years, to speak to Major Woodward who was in the prison, and to complain to him, and said to Major Woodward that he (witness) wanted to speak to his Honor. The governor spoke to the Major, and he (Major Woodward) refused to listen to him. Did not tell Major Woodward the nature of the complaint he had to make, because Major Woodward would not listen to him; made two attempts to speak to Major Woodward, but was not attended to; witness was then ordered to his ward. Witness was discharged in April last, and since then has worked at his trade as a white-smith, part of the time with his uncle in Kevin-street, but now with his father, who lives at Rathfarnham.—(Witness was proceeding to state some particulars as to diet, &c. and was asked by Mr. Townsend if they referred to Proselytism? witness replied certainly.)

Examination proceeded—The governor wanted to make a change in the diet, and to give meat or soup on Friday; this would entirely be a grievance to Catholics, for there were then scarcely any Protestants in the prison. This was about two years; the change of diet was stopped by Father O'Donovan, who went to the Archbishop about it.

Mr. ROWAN—This is hearsay.

Mr. TOWNSEND—Yes; but we can examine Mr. O'Donovan to the fact, as he is here.

Examination resumed—The governor after the regulation was prevented, came up to the division, and said he was very sorry to make any difference, and that they could not all eat meat. There was a man named Pat. Nowlan who came here a prisoner from Newgate, and died here; they were in different classes; Nowlan called witness several times to his window, before he (witness) came to him. Nowlan begged of witness, for God's sake, to send a Priest to him; that he was tired of reporting for him, and that he (the Priest) would not come to him. Witness went to the window of Nowlan on the Friday following the day on which Nowlan first spoke to him, and said to him, *this is Friday*, report for Father O'Donovan, and if he do not come to you, I will ask him did he get the report. Nowlan told witness on the Saturday morning that he had reported for the Priest; witness said he would know to-morrow whether Father O'Donovan did get the report. Witness has no knowledge only by Nowlan's own words that he (Nowlan) had reported for Mr. O'Donovan; witness on the following day, Sunday, asked Father O'Donovan did he get a report from Nowlan? Father O'Donovan said, No. Witness told Father O'Donovan that Nowlan told him that he had reported for him six or seven times, and that he was tired of reporting. Mr. O'Donovan said he got no report. Witness told Nowlan this; Nowlan replied, that it was no matter, as his heart was broken.

To a question from Mr. Townsend—Mr. O'Donovan, who was reminded that he was on his oath since yesterday, answered that he would have gone to Nowlan if he were reported for, but that for at least *three weeks* he did not know that Nowlan was at all confined.

Adjourned to eleven o'clock.

Fourth Day—July 13.

Examination of Peter Capper resumed.—Was given a book of Homilies of the Church of England, last winter, by Stephen Henrick; the book was against his religion.

Mr. TOWNSEND here begged the witness would not detail the fiddle faddle of his whole life, but that he would confine himself to a recital of those cruelties alleged to have been exercised in the prison, in the petition to which witness's name was signed. Let the witness mention the subject of his complaints, and state whether advantages were taken of the opportunity of his being a prisoner, to work upon him in an improper way, to coerce him; suppose to read the Scriptures—which were not allowed by his Church. Let the witness not occupy the Court by detailing conversations about turnkeys; let him mention such things as his being put on bread and water for so many days; that is a fact into which the Court would inquire, and it was quite unnecessary for witness to be talking of books and tracts, and authors on controversy, of whom, thank God, he (Mr. Townsend) knew nothing.

Mr. O'DONOVAN—Oh! yes, Mr. Townsend, but these things are not allowed by the understood regulations of the prison!!

Mr. TOWNSEND—Aye, but how can it be prevented; the administration of the law is moderate and temperate; there is no rack or torture used in it, and when all parties are disposed to talk, who can prevent them? Mr. O'Donovan, if I say any thing objectionable, I should be glad to be corrected by you.

Examination resumed—Witness was handcuffed behind his back, and kicked on an occasion since Mr. Rowan came; was after endeavouring to make his escape out of this prison, a fortnight or three weeks before that, but does not think the punishment referred to that attempt; was nearly successful in his attempt, but was taken before he escaped; when witness and his companions in the attempt were brought in, they were changed to another division, and put on bread and water; when they went to the new division, five of that division reported on the following Sunday, for the Catholic Clergyman; there were only three confined for the attempt to break prison; the other two of the five were confined for some other offence; the entire five were Catholics; on Monday the Priest did not come; when he (the Priest) did not come, the reports, both for the Governor and the Priest, were sent through Mr. M'Cloy, the officer; when they saw there was no one coming, they broke their windows; this window breaking was on Monday, that was the time witness and the other prisoners were handcuffed.

The witness was asked by the Court, could he trace this harsh usage, as he called it, to any religious persecution; witness replied,

that he could not be sure of any connection of that kind, but he complained of it being cruel treatment.

Mr. TOWNSEND remarked, that the Court had nothing to do with that then. If witness complained of harsh treatment or cruelty, he must make that the subject of a separate complaint to the Lord Lieutenant; the Court were only directed to inquire into the fact of cruelty being used to the prisoners for the purposes of Proselytism. He (Mr. Townsend) was not saying that Mr. Rowan did *not* treat witness with cruelty, nor that he *did*, he only said, that the Court had nothing to do with that now. (In this view, each of the Commissioners concurred.)

Witness here gave the names of O'Donnell, M'Cann, and Russell, now in the prison, who he thought could prove persecution on account of religion.

Questioned by Mr. O'Donovan.—Thinks, but is not certain of the fact, that Mr. Wood used him kindly for the purpose of inducing him to change his religion; witness was clerk of the Chapel in the Penitentiary; there were controversial pamphlets both *given* to witness, and *left* in his way in the prison; these were of a nature calculated to have the effect of shaking his faith; one of those pamphlets were given to him by Mr. Myles, that pamphlet was a treatise on *Extreme Unction*; it was against that doctrine; that tract was given in March or April last; Myles went away about that time; he did not remain longer an officer in the prison. (A copy of the pamphlet was here produced, it is marked [B.] see Appendix); there were no pamphlets *given* but this one, and those mentioned yesterday, but there were others *left* in witness's way; thinks they were left in his way for the purpose of his reading them; when Myles gave the above one, he left four others in the window; this was a prison room (Myles's.) (A copy of a tract on Purgatory was here produced, witness believes it to be the same; on reading it for a moment, the witness said he was convinced it was the same.) (This tract is marked [C.] see Appendix.)

By Mr. O'Donovan—Another of these is a tract, now produced, "A Protestant's Reason for not worshipping Saints and Images;" but there is a Poem attached to the end of the tract now produced which was not to the copy witness saw in the prison, with this exception it is precisely the same. (This tract is marked [D.] see Appendix.) Does not recollect the other two books; the officer's room was not a place open to the prisoners generally; does not know why, when the officer, Myles, gave him one book, he did not give him the other four of the five, unless he intended that witness should read one first; thinks the books were left in his way, although they were only on the window of the officer, because the prisoners always ate their victuals in that room. The book now handed to witness is the book shown by Haige to

him; it is written by Gideon Ouseley, and treats of the existence of four Popes at one time; Haige only read the passage about the four Popes, for witness, but did not give it to him; the book is entitled "A Short Defence of the Old Religion against certain Novelties recommended to the People of Ireland, by Gideon Ouseley," (marked [E.] see Appendix;) found another book called "The Good Farmer, or the Honest Catholic," in the kitchen; the book was left there by Mr. Keppell, an officer (the book is produced, and marked [F.] see Appendix); these two books were found by witness, about the beginning of May, last year. (Witness here identified another book, a collection of tracts, which is marked [G.] and is against Transubstantiation, see Appendix, as one of the books given to him; witness also identifies a book "Think Well On't," as that which he asked the Governor for, and which he did not give witness).

To a question from Mr. O'Donovan.—A book called "The Fifty Reasons," marked [I.] was borrowed by Mr. Baily from Paddy M'Ghee, a prisoner in the look-up class, for the use of the prisoners in witness's division; witness has no reason for believing the above five pamphlets were left in his way, except that Myles gave him one, and left the rest there; the Fifty Reasons were taken from Tom Smyth by Algeo. (Here witness read very clearly a passage from the book, and in answer to a question from Mr. Townsend—Why he, who read so extremely well should not know how to write his name, his signature to the Memorial which instituted the present proceedings being a mark? replied, that when he was taken away from school, he was very young, and then came into this place, where he had no practice in writing.

To a question from Mr. O'Donovan—Has seen, during service in the Catholic Chapel, the officers of the establishment in attendance; and has seen those persons often laughing and grinning during the most solemn part of the Mass; has seen Mr. Somerville and Mr. Suter, officers of the prison, thus deporting themselves in the Chapel; has seen Mr. Green, an officer, reading a History of London during Mass, and has seen other Officers doing the same; the officer was reading silently to himself.

To a question from Mr. Townsend—Has never heard the Officers laugh out loudly, but has seen them smiling, and has heard them make noise by walking up and down the seats; has never heard them make any other noise during Divine Service; has heard Mr. Thomas Baily, an officer (now dead) and Mr. Hume conversing together during Mass. (It did not appear from the testimony of the witness that the conversation, although it took off his attention from his devotion, was loud enough to disturb the congregation generally.) Has been kept from Mass five successive Sundays, and two at another time; this was after the attempt to escape which the prisoners made, and when he was in the lock-up class; the former occasion was when he was in the lock-up

class, after attempting to escape; the latter was in consequence of a complaint made by Pat. Ward.

Mr. ROWAN.—It may be well to say that it is a rule of the prison when persons are under punishment for such gross impropriety as the witness acknowledges, that they are not permitted to go to any place of worship.

Witness was here proceeding to detail ill-treatment to him which had no connection whatever with religious persecution, and entirely referred to punishment of a violent nature, such as kicking, which was inflicted upon him after his attempt to break prison.

A curious, and rather irrelevant examination here took place of the Rev. Mr. O'Donovan, as to whether he was ever refused access to any of the prisoners. It did not appear from the testimony of this Rev. Gentleman that he was ever refused admission on applying for it. Mr. O'Donovan said, that when the prisoners reported for him, the report was not forwarded to him. With regard to the two notes, which he (Mr. O'D.) received from Carey, he said he did not apply to the governor for leave to go to him, because he (Carey) was a reformed Protestant, and he did not wish to interfere with him; at the same time he had been refused admission by the keepers, although he did not complain of this to the governor. To a question from Mr. Townsend—Mr. Rowan deposed, that if Mr. O'Donovan came to him, and that if he (Mr. O'Donovan) said he had reason to suppose that any prisoner wished to see him (Mr. O'Donovan), he would feel himself unworthy of his situation, if he could refuse him access.

Mr. TOWNSEND, and Major WOODWARD, expressed their surprise that Mr. O'Donovan had not frequent intercourse with the prisoners, as by the Prison Act, the Protestant and Catholic Chaplains were bound to visit two or three times a week, the prisoners, and to *exhort them*. If the intercourse which the law contemplated, were kept up, it would be impossible that even a conspiracy of the officers of the prison, could prevent a Clergyman from being in communication with the prisoners.

Capper, cross-examined by Mr. Rowan.—His first punishment about Religion commenced in about a year after Mr. Rowan came here; was fed on bread and water for five days, for the conversation about the Virgin Mary; does not remember that on the 3d May, Mr. Wood was asked to decide on that question, (1st Galatians, 19th verse) which had been previously discussed by the class; or that, Mr. Wood said he would not decide upon a subject of controversy, but he would refer him to the Testament for a knowledge of the truth; heard Mr. Wood say something of the kind a long time after witness received the punishment in question; does not recollect he was confined to his room in consequence of some misunderstanding with Mr. Wood. There was a knife and saw found in his room; he had used them in making a crucifix of bone; denies that he was confined to his room on this account; recollects his asking a book from Mr. Wood; witness was

to the Chapel; he had increased intercourse with Wood in consequence—he collected some of the books and pamphlets for Mr. O'Donovan before he was clerk—recollects Mary Frazer making a complaint in the Chapel against Mr. Rowan; she said that after Mr. Rowan tried her, he asked her what her religion was, that she said a Roman Catholic, and that Mr. Rowan replied that she should be transported, and that she replied she would remain a Roman Catholic at the bottom of the sea; Mr. O'Donovan told her to be silent, or that he could not celebrate Mass; did not hear him say, " sit down child;" is certain that Nowlan told him he had frequently applied for an interview with the Catholic Chaplain, that his heart was broke reporting for him; he saw Nowlan afterwards at Mass.

Mr. ROWAN was proceeding in a line of cross-examination, to make the witness confute his own testimony, but on the suggestion of the Court, that it would be better that a refutation should be made by the witnesses for the defence, that course of examination was not pursued.

Cross-examination resumed.—Mr. O'Donovan never employed witness to get those books, that is, to collect them; never desired witness to get into conversation with the officers of the establishment, nor used any inducement or promise, but he told him, that if he got any of the books, to keep them; found the books in question in Mr. Myles's room, but has heard that there was a positive order that no one should go into the officers' rooms, unless at meals; recollects Mr. Rowan investigating the circumstance of the saw and knife being found with him; witness accused Baily of taking the crucifix out of his bag; (Mr. Rowan said that the object of this line of examination, was to show, that the books were not left in his way;) remembers the day he left the Penitentiary having received very good advice from Mr. Rowan, as to his future conduct in life, and as to the disposal of the money which he had earned, which he then was paid, and having expressed his gratitude to Mr. Rowan for his general conduct to him; recollects in the course of the Monday following, he, accompanied by John Connell, John Haffey, and Manus M'Laughlin, who were discharged with him, went to the Editor of the *Register* Newspaper, for the purpose of having an account of the cruelties practised here, published; witness was against publication, he was for embodying an account of it in a Memorial to the Lord Lieutenant, and having it sent to the Lord Lieutenant; he was determined on doing so before he left the Penitentiary; his opinion succeeded in persuading the others to give up the publication of it; does not remember having ever told his plan, while he was in the Penitentiary to any other prisoner; procured a person in Winetavern-street, to draw up the Memorial; told him all the grievances, and he took a note of them, and desired him and M'Laughlin to call again; witness told White, Lynch,

and his wife, and William Gavigan, whom he and M'Laughlin met in Thomas-street, who were also bent on some representation of the injuries they had suffered in the Penitentiary, and they agreed to make a joint Memorial, and that he should, as he would remain in Dublin, have it forwarded to Doctor Murray; did not go to have a Memorial drawn accompanied by any person who had been an officer in this establishment.

Examination closed here.

The witness said that there was money due to him since Mr. Hollingsworth's governorship; there was money due to him for his earnings, and that after Mr. Hollingsworth's retirement, when Mr. Rowan came; in about six months, he had an opportunity for the first time and he then told him of the sum being due to him; he (witness) however was never paid the sum in question, although, as he stated, there were others, Edward Clarke, and James Thompson, similarly circumstanced, paid their earnings, and these persons became Protestants, from being Catholics; there were fifteen months due to him in this way, and at the least he was entitled to 1s. 6d. per week, and he never got more than 4s. 6d., in two or three pence at a time; he (witness) did not break as much as they did, they broke handcuffs, and witness did not.

Mr. ROWAN said that the power of giving any thing at all to the prisoners was entirely discretionary with the governor, who might either give the employment or not, as he pleased; the occurrence in question was not in his (Mr. Rowan's) time, it was in the time of the former governor; at the same time he believed there was nothing due to Capper.

Witness persisted in saying, that there was the sum stated due to him, and said he would prove it, and would Memorial the Lord Lieutenant for it, as it was a hardship to pay one, and not pay another.

Witness withdrew.

Mary Frazer called in, sworn, and examined by Mr. Townsend.

(The appearance of this woman, betokened an extreme state of terror and agitation, and on being questioned, she wildly implored the Court not to require of her to answer any questions.)

Was put into solitary confinement here, but does not know of any attempt having been made to induce her to change her Religion. The officers might do many things without her knowledge, to make her change her Religion; was very badly treated at one time, but attributes the treatment then to ill-behaviour, in not obeying the rules; will be here two years next August; was a Catholic once, but is now a Protestant; thought it would be her advantage to become a Protestant, as she thought every thing would be more agreeable to her, and that the people about her would be more agreeable; does not, however, find any improvement in the treatment by the change; does not think those others who changed

were benefited; cannot tell then the reason why she changed; was punished because she wished to see her clergyman, and cried out for him in the Chapel; was threatened with Botany Bay for breaking the rules and speaking to the male prisoners through the key-hole; is not disposed to make any complaints at all; reported for her clergyman without being able to see him; hopes, that what she says now will not bring her ill consequences; means by that, that she hopes any thing she now says may not displease the governor; thinks she has been punished more than her offences deserved; thinks she deserved the punishment she received in the black ward for thirty-one days; has reported two or three times for Mr. O'Donovan, and gave the report to Mrs. Roberts.

(Here the witness cried, "Oh! gentlemen! gentlemen! for God's sake take me out of this now."

It was after being in confinement she became a Protestant; wishes to go to Botany Bay; prefers going there to remaining here.

Mr. TOWNSEND—"Would you conscientiously go to Chapel now, if you were not afraid?"

Witness—"Sure, no one can punish me for going to any place of worship."

Resumed.—while she remains here wishes to be a Protestant, but if she left this, she would be a Catholic; derives more instruction by being a Protestant than a Catholic, as there is more attention paid to them; has got more instruction these four months last, than she ever got before, whilst she was in the prison, for the Protestants are taught Catechism and the rules, by the female officers of the Penitentiary, while the Catholics are not interfered with, there being no Catholic officers. There is no attendance of a Priest, unless on Sunday.

Rev. Mr. O'DONOVAN stated, that the books of the Establishment would prove that he attended at least five times a week—out of all the prisoners there are scarcely 30 Catholics—*all* the prisoners, with scarcely an exception, were Catholics when they came in, but they have conformed; there was no Catholic schoolmaster or schoolmistress; there was something rotten in the place, which he would fathom. He (Mr. O'D.) would examine every prisoner in the place.

Examination resumed—Came in on a Thursday, but did not go to Chapel until the Sunday week after she came.

Mr. ROWAN said, that it was the rule of the Establishment that for a week after the prisoners of any religion entered they should go no where. This was to let those think, who had no religion, generally speaking; they are brought by reflection to a proper sense of the change which they are called upon to undergo; they are told the rules, and get an option as to the religion they will attach themselves to.

Examination resumed—Was prevented from going to Chapel on last Christmas-day, and was for four months and a fortnight not allowed to go to Mass; she reported and reported, without effect

She sent for the governor and asked him to let her go to Mass, and he said he would not let her do any such thing. In October the severe punishment commenced, and she was prevented until March, (when she became a Protestant) from going to Mass, although she wished to go to Mass, and so reported; did not say she would become a Protestant until she was about to be released from her confinement; during her confinement in the lock-up ward she was deprived of her books, and it was owing to Mr. Higgins, the Protestant Chaplain, that she got the books back. Mr. Higgins never asked her to become a Protestant. Before her confinement, she had committed an offence against the prison discipline; she had been speaking through the key-holes to the men; and Mr. Rowan, previously to witness speaking in the Chapel, and being put into confinement, asked Miss Freeman was she (witness) a Protestant or a Catholic, and Miss Freeman said she was a Catholic. Mr. Rowan in October, before witness was put into solitary confinement, told witness her conduct was so bad he should send her to Botany, as he was afraid he could not keep her in the house. The way witness became a Protestant was this: one day a conversation took place about the conversions, and some one said that the Church was getting full, and that it ought to be enlarged; she replied, that it was likely it would be more thronged before it would be less; one of the women then mentioned this, saying to Miss Taggart, her officer, that witness wished to become a Protestant. Miss Taggart came to her and asked her did she wish to become a Protestant—she said she had no wish. Miss Taggart came to her two or three times and expressed her surprise that she would speak as she had done if she did not wish to change. Miss Taggart on locking her up at night again spoke to her; witness said she had not made up her mind. After some other conversations she said she would become a Protestant.

A conversation here occurred about the practice of *not* acquainting the Catholic Chaplain of the changes in the religion.

Mr. O'Donovan expressed his utter ignorance of the manner in which Mr. Rowan managed these things.

(At this period of the examination the witness, who was struggling evidently between some very strong and conflicting feelings, cried loudly and piteously, "Oh! what shall I do? for God's sake Gentlemen send me to Botany Bay out of this—I can't keep the rules!" The Commissioners recommended her to be calm, telling her that she had nothing to fear.)

Witness proceeded to describe different modes of punishment which she suffered during her confinement, for speaking through the key-hole. Her hands were put into stocks, that is, her hands were kept at a distance from each other by a stick that intervened, which was locked close on her wrists. Her wrists swelled terribly. It was the surgeon had the stocks taken off; swears she was prevented from going to Mass, when she asked the governor, on Christmas-day, 1825.

Fifth Day—July 14.

On the sitting of the Court, Mr. Rowan addressed the Court at considerable length, in which he recapitulated those reasons which he had used on the preceding day, for narrowing the Investigation. The usual conversation in reply followed.

Mr. TOWNSEND said that the Commission instituted by the Lord Lieutenant was formed to inquire into the statements contained in the Memorial presented, and that these statements referred to the individuals whom Mr. O'Donovan said he would examine. The Commissioners were not directed to inquire into any grievances which others, not named in the Memorial, were alleged to suffer.

Mr. Henry Manning, late storekeeper, produced as a witness.

On this individual being brought forward he protested against giving any evidence on the subject, and begged that he might not be examined. He had, he said, a wife and seven children, and had been previously injured by the governor, which made him fear that his evidence might be considered prejudiced. He said if the grievances of the officers of the prison were to be inquired into, he would have no hesitation in giving his testimony, and would have Sir Henry Meredyth to plead his cause.

Mr. TOWNSEND replied, that it was a matter of mere will with Mr. Manning, whether he would give his testimony or not. The Court had no power to compel him. The circumstances regarding himself would be a good reason for his being cautious in what he would say, and for his restraining his feelings. We all, said Mr. Townsend, hold our lives and fortunes on the terms of assisting the administration of public justice. The Court would be glad to receive any evidence that might be offered touching the matters to be inquired into.

Mr. Manning said he had already memorialed for an investigation, which had been refused.

Mr. TOWNSEND said if he memorialed again, he might get an inquiry.

After considerable hesitation, Mr. Manning said he would give all the information in his power.

Henry Manning sworn and examined—Was the first officer ever appointed to a situation in this establishment; was first here as a clerk, afterwards as a storekeeper; was here the whole of Mr. Hollingsworth's time, and ceased on the 9th March, 1825, but received salary up to 23d February, 1826. In the capacities he filled he had access to the interior of the prison—(the names of the prisoners mentioned in the Memorial, are read)—Knew a prisoner of the name of Manus M'Laughlin, and knew Carey; never saw Nowlan but once; knew Duffy, and Walsh, and Capper; knew a good many of the prisoners named in the list; never, of his own

knowledge, knew of any means being used to induce any of them to change from the Roman Catholic Religion to the Protestant; cannot say that he ever knew of his own knowledge, any means being taken to induce any person to make that change; never knew of his own knowledge, any means taken to prevent any of them who had become Protestants from returning to their former Religion.

Examined by Mr. O'Donovan, through Mr. Townsend.—Has known officers in the prison explain the Bible to Catholic prisoners, who did not then object, but afterwards did object to it. He knew Mr. Wood the schoolmaster to explain it to the prisoners; has no reason to know that Mr. Wood imagined such a proceeding was objected to by the prisoners at the time; has known two of those prisoners after objecting to it, being present at the same proceeding; does not know that the objection which they had expressed at first was ever communicated to Mr. Wood; thinks Mr. Wood was doing this of his own accord; witness on hearing the objection of the prisoners M'Cormack and Lynch. desired them to mention it to the Chaplains; this was the Lynch who was in the kitchen.

By Rev. Mr. Higgins—The Bible is not an admitted book amongst the Catholics, and the Douay Testament is.

Which of these was it?

Answer—The Bible; I think M'Cormack had a Bible of his own—this was in the kitchen, and I believe the prisoners were at school, for they each recited a verse, I think out of the New Testament, one passage the 1st Epistle of St. Peter, c. 3. v. 19.; Mr. Higgins was afterwards consulted about an explanation of it by one of his own flock, Mr. Keppel, the warder.

Examination resumed.—Does not recollect the explanation that Mr. Wood gave of the foregoing passage; recollects there was an explanation about the passage, "What entereth into the body defileth not the soul;" the prisoners objected to the explanation; it was applicable to the doctrine of fasting. Recollects there was a change of diet, but does not recollect that the Catholics were required to conform to it; it was giving meat or broth on Friday. Mr. Rowan asked Mr. O'Donovan did he object to it, and upon Mr. O'Donovan objecting to it, the matter was dropped. Recollects an observation made by Mr. Rowan on that occasion—he (Mr. Rowan) said that there might be an inquiry one of those days about the change of diet, and that it would be said it was done for the purpose of making the prisoners become Protestants.

By Mr. O'Donovan—Recollects having seen a Roman Catholic Catechism with some written alterations in it, and some observations turning it into ridicule on the side of it; saw it in the kitchen. He knew the writing, it was the writing of the hall porter, John Fletcher; the book was brought to Mr. Rowan; Mr. Rowan burnt. This was a long time since; it was very shortly after Mr. Rowan came; does not know of his own knowledge that ever the

punishment of a prisoner was aggravated on account of his being a Roman Catholic. Recollects the time of Mr. Rowan requesting Mr. O'Donovan to change the hour of Divine Worship in the Chapel from 10 to 8 o'clock; does not recollect the hour being changed again.

Mr. ROWAN—You were present at the conversation between Mr. O'Donovan and me respecting a change of diet.; did I not say to him that the Roman Catholics might be inclined on Fridays in winter to take Soup to warm them, and that I thought it might afterwards be said it was given to induce them to change their Religion?

Witness—that did not form any part of the conversation.

Witness withdrew.

William Gavigan sworn and examined by Mr. Townsend.

Was a prisoner in this house; came in on the 3d of April, 1821, and was here for five years. While in the prison professed all the time to be a Roman Catholic; while in this prison there was an attempt made to induce him to change his Religion. Was asked by Mr. Suter, a warder in the prison, but does not remember the date—(Suter, who was present, was here ordered to retire)—this proposal was made about fifteen months ago; understands Suter was a Protestant; there were a good many Catholics in the house who became Protestants; Suter told him that he (witness) would be much more enlightened by going to the Church of England, than by remaining a Roman Catholic. Witness listened to that at first, through a fear of being punished if he did not. Suter spoke frequently to witness to the same effect; Suter at length spoke so far that witness told him to leave him, and not to walk at the same side with him, as he did not want to speak to him; witness then reported to see Mr. O'Donovan, and never got any satisfaction about him; used to see Mr. O'Donovan at Chapel on Sunday; but there was a considerable time that he, Mr. O'Donovan, could only see witness at dinner hour; the reason why Mr. O'Donovan could not see him except at dinner hour was because there was, as witness was told, an agreement that he, Mr. O'Donovan, should only see him at dinner hour; the prisoners were employed at fatigue work; means, that in consequence of being at "fatigue work," he was absent, except at dinner hour. At one time reported 21 times in the course of the month for Mr. O'Donovan, and did not see him until he (Mr. O'Donovan) came to see another person, Haffey; Suter never spoke on the subject of a change of Religion after the day that witness objected to it, but a fellow prisoner, Ward, who had become a Protestant from being a Roman Catholic, advised him to become a Protestant, and told witness he would shew him the error that was in his book, and enlighten him; witness told him to withdraw, and not to speak to him on the subject. Was in the hospital for a long time sick, and it was supposed that he was acting with *all thrift*, that is, that he was scheming and *not* sick; at that time got a bottle of medicine from

Doctor Hollingsworth, who remained after his father, as physician to the house; was forced to take that medicine, and was told if he did not take that medicine he would be confined to his ward—(the witness seemed to think this forcing of medicine on him was an act of cruelty, but it did not appear it had any connection with the subject of the charges—this examination was stopped)—did see clearly in the prison more attention shown to those who had changed their Religion, than to Roman Catholics. If a Roman Catholic did a depredation his crime was considered more heavy than if he were a Protestant. Knew a young man of the name of James Morrison, who had become a Protestant in the house, he broke a pane of glass, and he was locked up in his ward, and liberated after twenty minutes; when he was liberated, he came into the range and leaped about and cheered, and said, triumphantly, see what a thing it is for a person to turn to the Church of England and deny the Church of Rome!! There was a man of the name of Tom Kelly (a Memorialist), he broke a pane of glass; when he did it he went and told it, he was immediately confined to his ward, and kept there on bread and water for 24 hours; there was not a halfpenny worth of difference in the cases; Kelly broke his glass by accident and not by design; one was confined 20 minutes aud the other 24 hours, both for precisely the same offence. Morrison's offence first happened; but cannot tell the time that intervened between each offence; it was not more than a fortnight, it was just before Tom Kelly got his liberty that this happened; Kelly and Morrison got their release by pardon, from the prison, at the same time; always understood that a man's pardon is procured chiefly by the good reports of the governor and his officers of the prisoners; cannot say but he gave a man his merit, Roman Catholic as well as Protestant; cannot say, if it depended on the governor, why Kelly and Morrison were released at the same time; if the governor only came into the division to see the prisoners, his manner was more kind and friendly to the Protestants than to the Catholics; knows himself to be punished for being a Catholic. After reporting so often for Mr. O'Donovan, ineffectually, he at last spoke to him in the Chapel from the gallery to come to him, and immediately afterwards witness on retiring to his division, was called up and put on bread and water for 24 hours; this is better than a year ago; was told it was for that that he was confined; the cause assigned was for speaking to Mr. O'Donovan, instead of reporting for him, although he was constantly before that reporting for him; witness was another Sunday, and went to the Altar to speak to Mr. O'Donovan; Mr. Algeo followed him out and spoke to him in a most dogged manner, and gave him great abuse; witness was then carried to his division and locked up for 24 hours, and kept on bread and water; this was about a month after being confined the first time. About a fortnight after Mr. O'Donovan was going to see one of the men who was ill, went across the yard to speak to Mr. O'Donovan, and was then for doing so, put on bread and water for 24 hours.

Witness here again was detailing some circumstances about a bottle of medicine which was administered to him, and in which according to his statement, there was *vitriol*, from the torture it put him into; the medicine was given to him by Doctor Hollingsworth; according to witness's description of this medicine, it was something indescribably sickening, and had the effect of making prisoner so sick that witness, next morning was ordered into hospital by Surgeon Todd; Mr. Rowan admitted that the medicine was given through mistake; witness detailed what he conceived to be great inhumanity exercised towards him by the governor. (This part of the testimony was not at all relevant; and the entire indignation of witness appeared to be directed against the medical profession, generally, and Hollingsworth particularly. Witness did not attribute the physicking by Hollingsworth to his religion.)

Witness at another time became very sick in consequence of stooping winding cotton, and blood began to flow from his nose; it was said to witness by Mr. Somerville, an officer, that the blood did not flow naturally, and that he had a way of making it flow. In consequence of frequent reports of witness's bleeding, the governor removed him to a lower division, and put him on bread and water for three days; was ill at the time, and a blister nine inches wide was put across his chest; witness attributes the severity he then experienced to his being a Catholic; witness, on being questioned as to the reasons of his so thinking, said, that it was the general saying in the house, that a Protestant was loved better than a Catholic; Mr. Rowan once said in the presence of the Reverend Mr. Higgins that he loved a Protestant dearly, but that a Catholic (*Here witness imitated an expressive shake of the head that he implied Mr. Rowan had given to convey his meaning with regard to a Catholic*) The occasion was, that when Manus M'Laughlin, who had become a Protestant, was again returning to the Catholic Church, that Mr. Rowan spoke this way; Mr. Higgins did not check him (M'Laughlin), he reasoned with him nice and mild; M'Laughlin said at the time, that the governor had no right to meddle in spiritual matters between the two Chaplains; the governor said he had a right to speak on all occasions, and asked M'Laughlin why he should dare to speak to him in that way; M'Laughlin replied that it was his duty to say so; M'Laughlin was pardoned with prisoner. There was another Sunday, a little after the breaking of Mr. O'Donovan's arm, Mr. O'Donovan was a little too late at the Chapel, and the Catholics, who were ranged in the Chapel waiting for him, were sent back to their wards, and were not allowed to hear the Word of God; and he (Mr. O'Donovan) applied to get them back again, but was refused.

Mr. O'Donovan corroborated this fact, and at the same time explained the cause of his delay, which was the opening of the bandage on the broken arm.

Another day Mr. O'Donovan was hearing confessions in Suter's room, and one man, Neale M'Hugh, was at his knees; Suter came

Sixth Day—July 15.

Mr. O'Donovan, on the sitting of the Court, requested that the persons who were crowding the room, and who might hereafter be examined, as witnesses, should retire. He also wished for a copy of all those documents that he had produced, and which were retained by the Crown Solicitor.

Mr. Townsend said, that it was not to be expected that they should retire—those persons to whom Mr. O'Donovan alluded were the officers of the prison, who were deeply interested in the result of this investigation. It was quite foreign to the spirit of our laws that the accused should not hear the evidence brought against them—with regard to the documents there was no doubt that they would be returned.

Mr. O'Donovan explained, there were persons in the room whose names would not be mentioned as accused, but whose evidence might be wanting.

Mr. Townsend replied, that when the accused were put on their defence, it might be well to separate them, that one should not hear the defence of the other.

Thomas Smyth produced.

This witness, who was a remarkably decent young man in his appearance, on coming forward, seemed under the influence of very strong feelings of terror.

Mr. O'Donovan (to Smyth)—Do not be alarmed, no injury can happen, the protection of Government is extended to you.

Mr. Rowan—Those insinuations are highly improper.

Mr. O'Donovan—I really cannot believe that there is not a necessity of saying something to the witnesses that will give them confidence, and relieve them from the terror under which they evidently labour. The demeanor and conduct of the poor woman yesterday, proved sufficiently what conviction the witnesses feel in their own minds with regard to their testimony.

Smyth—I am within three weeks of my time being up, as the governor tells me, and I am afraid.

Mr. Rowan—The witness, with regard to his period of imprisonment is mistaken, I will tell you—he came here under a rule of transportation, but I was ordered at the expiration of two years to report on his conduct. I did report, and said that he was not fit to be liberated, and, at the same time, suggested that at the end of another year he might be liberated with propriety. He is afraid now that his evidence here may have some influence upon the report which I am to make; but I should think myself not worthy of holding my situation if I were to suffer myself to be betrayed into the impropriety of referring, in any way, in my report of him to the evidence he will give here.—Smyth you may depend on me, and tell the truth.

Smyth—(to Mr. Rowan)—I would not be afraid of your honor, but the officers—

Mr. ROWAN—If they should use any improper treatment towards you on account of this, tell me and I will take care to prevent such conduct.

Smyth—Well, God knows I am willing to tell all the truth, but—

Mr. TOWNSEND—Are we to understand that you decline to give evidence ?

Smyth (After an apparent struggle)—Oh ! no Sir, I will tell it.

The witness was then sworn and examination proceeded.—The 6th or 16th August will be three years in this house ; is, and has been a Roman Catholic ; there has been an attempt made by officers in this house to induce him to change ; one of the officers, Bernard Murphy (who is not now here) who was a gardener and warder, attempted to change his Religion ; Murphy called more than once at the room, and called witness and Drury, another prisoner, away from their fellow prisoners, and told him that if he, witness, would go to Church he would be the better of it, and would have the governor's good wishes if he did so. Does not recollect what time this was, but believes he was a year here then ; Murphy spoke to him here to the same effect, and said that if he did not he would be sorry, as he (Murphy) understood the terms on which he might be liberated, and that the time would come when he, witness, would say that witness would be sorry that he did not take his (Murphy's) advice ; witness said in reply, that he was sure, although he would remain a Catholic, the governor would do him justice ; spoke on one of those days when Mr. O'Donovan was not come to Chapel, when the prisoners were removed and not permitted to wait for him till he would come.

Rev. Mr. O'DONOVAN said, that occurrence happened more than once.

The first time was when the prisoner, Drury, was with him ; Thomas M'Cloy, an acting turnkey, who was here, spoke to the same effect to witness ; M'Cloy is not here now ; Mr. Somerville, another officer, spoke to the same effect, but not so openly as the others ; was reduced to the lock-up-class, and locked up for six months and seventeen days in solitary confinement for reading a Book called The Fifty Reasons, and not giving it up to Mr. Lee, who asked it of him ; was confined in his own place two days, and six months and fifteen days below, before he was restored to a liberty class ; went to Mass every Sunday during these six months ; was not debarred from that ; did not suffer more restraint than all persons in the third class do, during these six months ; Mr. M'Cloy, (not now here) the officer, often spoke to him about changing his religion, and said that he wondered that a man who could read so well did not see what was in the Bible ; on an evening, Mr. Murphy called witness into Prayers, and gave him a little book, in which he said were Prayers, and that it was

intimated to him from regular authority, that all prisoners were expected to go to Prayers; witness begged he (Murphy) would excuse him, as he was of a different persuasion; Murphy said that he was directed to report it.

Mr. ROWAN said, that it was his direction that all the warders should read Prayers each evening before they retired, and that the Catholics were not required to attend, although they were not shut out.

Mr. O'DONOVAN—I never heard of it, if I did I would oppose it.

Mr. ROWAN—I did not think it necessary to consult you.

Witness proceeded—Goold and Drury, other prisoners, were with witness, when he, witness, said, on being called into Prayers, that he would not act the hypocrite, and would not, being a Catholic, go to Protestant Prayers; Goold is now in the prison; then they, Goold, Drury, and witness, did not go in; witness did, before that time, go several times to Prayers, until he was told by Mr. O'Donovan, to whom he spoke, not to go there, as it was contrary to the rule of the Catholic Church.

Mr. ROWAN—This is capable of proof; if it were true, it was reported of course, and the reports are on record.

Resumed—No persons, except Murphy, ever said that they spoke to witness by authority; M'Cloy said that it would be a sore job, if he, witness, did not comply; witness was so harassed by M'Cloy that he reported for Major Palmer, to tell him; Major Palmer did not come; but Algeo did report for Major Palmer, because he was acting for Mr. Rowan, the governor, who was then in England; M'Cloy persecuted him in every way, every thing he, witness, did, was objected to as being bad, and he was, at dinner time, kept to work in the garden, when he ought to have been done, and to be at ease; if the governor had been at home, witness would have reported to him; when Algeo came, witness told Algeo of the persecution M'Cloy used to him. Four times after breakfast, four times after dinner, three times after supper, he was obliged to sweep, and used to be obliged to clean the *pots* of all the prisoners in the yard; did not tell Algeo what M'Cloy said about Religion, but told it to Mr. O'Donovan, when he saw him, and told it also to some Roman Catholics, prisoners; Algeo said that the officers all came here with good characters, and that the prisoners should obey them; witness said that although he was sent to the Penitentiary by Government, he was not sent there to be trampled upon; never mentioned the business to Major Palmer or Major Woodward; saw the governor in the garden, in a few days after his return from England; could have spoken to him then if he pleased, but did not tell him of what M'Cloy said to him about his religion; was afraid to say any thing at all about Religion to either Mr. Algeo or the governor; was afraid to speak because Algeo told witness, when he first spoke to him, that a prisoner's word would not be believed; and witness knowing that

his word would not be believed, therefore thought it better not to speak of what might injure him; witness became possessed of the book which he refused to give to *Lee*, by means of a turnkey; the turnkey came into his (witness's) division, and witness asked him to get the book for him; the turnkey got it for him from Pat. M'Ghee, a prisoner, in another division, and gave it to him; Lee came into the room, and seeing witness reading the book, said, you villain, you robber, you reprobate, how dare you read any book in this Institution without my authority? The harshness of this language made prisoner refuse to give the book to Lee, for he (witness) gave it to Mr. Algeo, who was sent for; Algeo said, "Smyth give *me* the book?" witness said, "yes Sir, and if he, Lee, asked me for it in a proper manner, I would have given it to him;" it was for refusing to give the book that witness was sent down to the reduced class; was not told by any person of any other reason for the punishment; his punishment was about the book, it was either for having, reading, or refusing to give up the book; thinks it was for having it, as it was in defence of the Catholic Religion; was, on the occasion, tried before his division by the governor, and before he was sent down the governor said, that he would send him down to another class, that he did not keep him there before this time long enough, and that he would punish him for the transaction with Mr. Lee; does not know was it for having or refusing to give up the book he was punished, but thinks it was for the former crime; does not remember any thing else done to him for his Religion.

To a question by Mr. Townsend.—It was the opinion of the Roman Catholics generally in the prison, that the offences of the Catholics would not be looked over as leniently as those of Protestants; Ward came here three weeks after witness came, as the governor said, under similar circumstances with prisoner; he became a Protestant from being a Catholic, he got his liberty in two years and six months; and witness never has in any way, misbehaved or offended, unless in the affair with Lee; and he, witness, has not yet got his liberty; witness believes his conduct to be equally good; there were complaints against Ward, at least as bad as refusing to give up a book; witness was tried at Roscommon; knows nothing of his own knowledge, that is personal to himself, but the fact about the difference of treatment towards Ward and him; (witness was here told of the object of the inquiry, that it was to find out any persecution about Religion); witness was a winder, and he could not earn more than 9d. a week, while the cleaners in the lock-up class could earn more wages; they were all, with the exception of Goold, Protestants; it was the general belief that the cleaners, who were Protestants, and who had more intercourse than other people with the prisoner, for they could go to the ward-room, and speak as they liked, were sent down for the purpose of watching prisoners as they came in, and inducing them to become Protestants; has heard from the pri-

soners that these attempts were made on their coming in; it was a common report amongst them; has heard that Con. Callaghan and Stephen Henrick, who are now cleaners, have been tampering in this way; has known several tracts being circulated amongst the prisoners; several of them were written in a most heinous stile; amongst others, he saw Ouseley's book, "a Defence of the Old Religion," with a prisoner (Bernard Moran) who is here now, and he said he got it from Mr. Wood. Mr. Somerville, (a turnkey, now here) gave a book called, "History of Thomas Walsh," which he desired witness to read, and hoped he would be improved by it. This Thomas Walsh was related to have been a Catholic for forty years, then he became a convert to Protestantism; there was also a pamphlet, "Patrick Dunn"—"Coke's Commentaries"—"Father Patrick"—"Scripture Help," and several others; saw these with prisoners, and heard that they got them from the officers.

Mr. O'Donovan—(handing tracts)—Did you ever see any of these?

Mr. Rowan—That is not the way to put the question.

Mr. Townsend (looking at them,) I do not know how the question can be otherwise put. Good God, are there polemics in every prison? !!

Major Woodward expressed a hope that there were not.

Mr. Rowan—You will see few prisons like this prison, in any way.

Mr. Dolan—Aye!

Examination resumed.—Another day the master shoemaker, came into the witness's place, and asked him how long he intended to remain in his inconvertible state?—Witness said he did not mean to be a convert; does not recollect that any other of the officers had any other conversation with him.

To a question by Mr. Rowan.—Never complained to him (Mr. Rowan); never told Mr. O'Donovan, to tell him (Rowan) of it.

Mr. O'Donovan.—If I did, I suppose you would say as you said before, that you would suspend me.

Mr. Rowan—Mr. O'Donovan, I beg you will not interfere.

Resumed—His father came into the prison with him; his father was sentenced to seven years' transportation; witness was told in the Court by the Judge, that his sentence was only short, and that his duration would depend on his good behaviour.

Mr. Townsend here explained that the terms of the sentence was the full one; that prisoners could not come here otherwise, and that their sentences could be only mitigated by the exercise of the prerogative of the Lord Lieutenant.

Resumed.—Witness's father was here no more than nine months; witness and his father were both convicted of the same offence; witness's father was indicted for coining; and he

witness) for assisting him. His faith was the Catholic—that did not influence the Government to prevent him from being pardoned. No; all the old men were let out. All the cleaners mostly are Protestants. John Goold is a Catholic and a cleaner, and was so for a long time before he went to the garden; Goold held another situation of *confidence*—he was an assistant *cook* in the kitchen; Goold was removed from the kitchen for misconduct; has not heard that he was again brought back to the kitchen, and that he was obliged from ill health to leave it; heard Goold say, on being brought to the garden, that if he had been a Protestant he would not have been removed; Pat. M'Ghee was another Catholic, and a cleaner. Owen Moriarty was a prisoner in this house, and he was continually tormenting witness to become a Protestant, and asked witness to read a Bible. Witness to get rid of his importunities did ask Mr. Algeo for a Bible with notes, who said that he would not give a Catholic a Bible of that kind, neither would the governor, although he would wish every man to be a Protestant; mentioned in about twelve months after he came into the prison, to the governor, his wish to get leave to go to the trade of a carpenter, of which he knew something, and was not sent, which he attributed to his being a Catholic. The governor said, through Algeo, that there were already too many at it; and to witness's knowledge two others, William Anderson, who was always a Protestant, and Edward Aylward, who became a Protestant, neither of whom was so long in the prison as witness, were made carpenters.

Mr. ROWAN interfered, and said, that he had a right by his Commission, as well as by Act of Parliament, to use his discretion in putting prisoners to any trade he pleased; and that if his power were questioned, the investigation would be interminable.

Mr. TOWNSEND said, that the power was not questioned, but that it was a fit subject of inquiry, to ascertain if that power delegated to a public officer were used by him, for the purpose of conversion. The witness had mentioned the fact, and it was for the Court to consider the tendency.—It was for the Court—

Mr. ROWAN expressed his intention of not refuting such things, and of trusting to his discretionary power.

Witness was ordered to withdraw.

Mr. ROWAN (to witness)—I think it well to say now, that you must be sent to another ward to prevent communication. The witness looked horrified.

After a pause—

Mr. TOWNSEND—Are we to understand that you will remove him to another and worse place.

Mr. ROWAN—No, but I will remove him to prevent communication.

Witness—All the persons in my ward are Protestants.

Mr. ROWAN—They were Catholics, and have become Protestants.

Witness—(terribly agitated)—I trust in GOD, I will not suffer by this day—I have no communication whatsoever with any person—I do not entirely doubt the governor for I hope he would not punish me—but there are the others, the officers, and the turnkeys, and they may inflict upon me punishment that their situation allow them to inflict, and for which I cannot get any redress.

Mr. HIGGINS—Smyth, you have constant opportunity of seeing me—and I am sure you will not distrust me—tell me if you are oppressed in any way, or tell Mr. O'Donovan.

Witness—May be I would not see Mr. O'Donovan, I have been for months without seeing him, although I reported for him.

(Here a long conversation occurred as to the removal of prisoner. The witness was ordered to withdraw for a moment.)

Witness—Oh! Gentlemen, sure I won't be sent back to a solitary ward, where I won't have any communication with any person, for the evidence I give here to-day.

Mr. ROWAN—If this Commission be not intended to supersede my authority, I will use my discretion in every way. My government is one of opinion, and it is necessary that my authority should not be lessened in the estimation of the prisoners; I will therefore lock up every prisoner in the Penitentiary! !

Mr. TOWNSEND—We do not mean to supersede your authority, but we will suggest to you, that any thing which increases the terror under which the witnesses are evidently coming forward, ought to be avoided—that witness came here under terror and he has left the table under increased terror; and it behoves us who are sent here to elicit truth, to do nothing that may suppress truth. I certainly fear that any change in the custody of the prisoner, may induce an opinion that the change is, a punishment incurred in consequence of the giving evidence.

Mr. ROWAN—I really do not know how that can be avoided, and I have well weighed every circumstance, unless I would go round the prison and make an apology to every one of them—I will make a special application to Government, if my authority should be questioned. After a long dialogue, in which Mr. Rowan made some very severe remarks on Mr. O'Donovan's interference, the prisoner was sent off to another ward.

John Goold (a prisoner,) sworn and examined.

Has been here three years; does not recollect that any body since he came into this prison endeavoured to induce him to change his Religion; thinks he has been shown as much respect here, owing to his good conduct, as any other man; never changed his Religion; was tried in the City of Cork; holds the

situation of cleaner in the prison almost since he came to it; he has been always employed, partly in the prison, partly in the kitchen, and partly in the garden; acts as cleaner in the Cork Range; does not know that it is a favor to be made a cleaner, because he must work hard there, but the distinction is got by a man being well conducted; does not know of any other persons being tampered with in the prison, because he has no time to attend to such things being always employed.

Cross-examined by Mr. O'Donovan—Does not know of any inducements being held out to prisoners to induce them to change their Religion; has often gone in to hear prayers read in the keeper's ward; does not know whether he has ever been urged to go there; has never been insulted by any one in the prison on account of being a Roman Catholic.

Resumed—Knew Drury and Thomas Smyth; has known Smyth to be reduced; cannot tell the cause of his punishment; has never seen any book in the prison called "Fifty Reasons," but has seen hundreds of books in the prison; has seen Testaments, Bibles, Story Books, Spelling Books, &c. Can read a little; cannot recollect upon his honor or his word, what the "Story Books" which he read, were; remembers no other books, but Story Books; has never seen Religious Tracts here; no one told him before he came into this room about what he was to be examined; came into this prison with Stephen Henrick, and Cornelius Callaghan; witness was sent up from Cork for "administering forged notes." The above named persons were Catholics when they came; they are now Protestants, they go to Church at least; saw those men to-day, they sleep in the same Class with witness; has never found that they were better treated than witness; knows David Drinan, who also was a Catholic, but has become a Protestant since he came here; believes he was the first of his name that ever went to Church; knows Connell, Terence Coghlin, and Patrick Carey, who also became Protestants—indeed they almost all who came with prisoner, and five and twenty came, have become Protestants, or at least they went to Church, except Little, Murray, Gray and Walsh, who went to Church in Cork; Walsh changed to be a Protestant in Cork; supposes that there are now no more than seven or eight of the number in the prison; they are scattered here and there, and of these now in the prison there were no Protestants before they came; would be afraid of God if he said any thing that was nottrue; (witness appealed to the gov. for a character for propriety. The governor said, that he never knew of any thing improper done by him, that he was a most excellent man,

Mr. O'Donovan asked Mr. Rowan, was not the witness reduced?

Mr. Rowan replied that he was not bound to answer the question, as he was not then on his defence.

Witness withdrew.

William Connell sworn and examined.

Will be two years here the 2d of September; is a Roman Catholic; was never of any other Religion since he came here; has observed a difference between the treatment given to him and to Protestants of the same division. Was sick with a complaint in his bowels for four weeks last winter, and would not be allowed out of his ward to warm his hands at the fire; others who were in the Doctor's report were let out to enjoy such an indulgence; those who were let out in this manner were Protestants; cannot say that their disorders were the same as his (witness's;) Doctor Orpen said he could not let him (witness) out, until he was well, is very sure that it was not on account of his Religion Doctor Orpen said *that*, but it was the general instructions of the Doctor not to allow any one whom he was visiting to be suffered out; witness attributed the relaxation of the rule in favor of others by the keepers, to their being Protestants; there is a man with the same complaint as witness had, now in witness's ward, and yesterday Flanagan the warder, had him out walking in the air.

Witness was reported to have spoken to a man of his own division in the workshop; it is contrary to the rules, and it is a rule that is impossible to be kept, where there are fifteen men weaving together, not to speak to each other, and witness was reported, and in consequence of this offence, he was debarred from seeing his sister on the Sunday which he was allowed by the governor to see her, and a letter from his cousin, then in the office, was stopped for some time; is quite sure he was reported on account of his being a Catholic; all the others in the division are Protestants and speak to each other without restraint, *they* have not been reported; there was a written note found under the door of Pat. Carey, who was transported from this, and he, on account of that note being found there, was locked up for eight days, three of which he was fed on bread and water; there was one other Catholic in the ward, all the rest were Protestants, and he was also punished; it was supposed it was one of the Catholics who left the note there; there was no investigation; heard the note was advising Carey, who was about returning to the Catholic religion, from which he had strayed, and who was then reporting for Father O'Donovan, to persist in his determination; thinks certainly it is more likely, that either of the two Catholics would leave that note, than a Protestant; never heard of a man being locked up for advising him to become a Protestant; never suffered any extra-punishment which he could attribute to his being a Catholic since he came into the prison, but what he has stated; has heard from others, that they were punished for being Catholics; Smyth told him he was punished for it: that he was put on bread and water for it; had scarcely any opportunity of talking to Catholics

on the subject, for all those in the division with him were Protestants.

The day he came into the prison, Mr. Crofton desired him to give up every thing he had; pipes and tobacco, and amongst other things, witness had a bead; Fleming the officer in charge, said, pointing to the bead, "Mr. Crofton, you may take that." Mr. Crofton said—"No, he may keep that"—and returned the bead to witness; was then led down to Mr. Flanagan's yard, and Flanagan desired him to search his pockets again, as he might have more things to deliver up; witness again searched, and took out the bead; Flanagan asked him what he wanted of that? Prisoner said it was a rosary on which he said his prayers; Flanagan asked him (witness) was he able to read; witness replied he read a little; Flanagan said, you will get books here, Prayer Books, and the Testament, and the Bible to read; Flanagan asked him did he ever read the Bible or Testament? Witness replied he never did; well, said he, it is mentioned in the Bible. that there is no allowance for prayers said on sticks or stones! Flanagan then asked witness was he a Roman Catholic or a Protestant; witness replied he was a Catholic; Flanagan again asked him did he ever read the Testament or Bible, and expressed his surprise that he never did; witness said, that in his Church, it was not allowed for the lower orders, lest they might pick a false meaning out of it.—"Oh! (said Flanagan) how horrid must that profession be, which hinders a man from the reading of the Bible or the Testament, the pure Word of God!" Witness was removed out of that division immediately; was only there a couple of hours then, while he had his bolts on, and was put under Mr. Somerville's care; has been under the care of Flanagan the last three weeks, during which time he has not said a word to him about Religion; reported neither to the governor, nor to any of the officers, of Flanagan having tampered with him, but reported it to Mr. O'Donovan. The second or third day after coming into Mr. Somerville's division, the governor came there; the governor had a conversation with the prisoners, asked them about their conviction, and the length of their sentence, &c. asked also every man round, what profession he was of; witness said *he* was a Catholic, the others said the same. "Well, (said the governor,) I have known many men here, who came into this building Roman Catholics, and afterwards went to Church, for which I hope they are in no way sorry, but the reverse; there is a Chapel here, said he, for Catholics to go to; the Catholics have prayers for *an hour* every Sunday, and some other days; there are prayers *once every day* in the week, and *twice* on a *Sunday, for the Protestants*; there are the greatest pains and care taken to instruct them in the principles of their Religion; when (said he) a Roman Catholic comes in here, he is allowed to go where ever he thinks well of, that is to Church or to Chapel. If he go to Chapel

after coming in here, he is allowed to turn to Church after, if he please, and, if he don't approve of that, he is allowed to turn back to his Church again after some time; and if a man go to Church after coming in, he is allowed in the same way to go to Chapel, and after that, to go to Church again, but no further change than that," there are no more than the two changes allowed, if he wanted to change a third time, it would not be allowed. The governor also said, that when people came in, he allowed them some time to think of what place of worship they would go to; was there only two or three days; was changed to another lock-up division, kept by M'Cloy; was at M'Cloy's the first or second day, during his half hour allowed for recreation in the yard; there was an assistant there, one John Bulbridge, and *he* asked witness, was he not from Limerick, and did he not know those others from Limerick, *Toole and Daly*, witness said he did, and liked them, and Bulbridge said he liked them too, and liked every one who liked them, and that every one who would do as they did, would do well; and, "if you take *my* advice," said he, "you will do well also, or you will draw yourself into persecution and hobbles; if you go to Church, I doubt you wo'nt be three months in the division—if you do not, there is no knowing how long you will be in it." Such advices as this were given by Bulbridge, for a fortnight or more; Bulbridge said that he saw witness's sister at Church, and also, the girl who came with her, and that if he (witness) went to Church, he could see her and speak to her; Bulbridge is now in this prison, was put out of the third class once, for about a fortnight; was put back again; Bulbridge is a Protestant; Bulbridge so far tormented witness on the subject of Religion, that on several occasions he (witness) was going to handle, (i. e. commit personal violence) upon him, but he prayed to God, to give him patience; when witness used to be locked up in his ward, while the other prisoners were reporting to go to Church; Bulbridge used to run into his ward and ask him would he (witness) report to go to Church; then he used to go into another division, as witness afterwards heard, and then used to run to the division of Daly and Lynch, who came with witness, and ask them, and tell *one*, that the *other* was reporting, as Daly said he would go to Church, when he (witness) would go; witness asked Bulbridge, why he did not leave the ward, as he was a Protestant, and go to a better one, and Bulbridge said he would not go if he were told, as the keeper was so fond of him, and as he was a cleaner.

There was another reduced man, who was sent from another division, his name was John Walsh, and the keeper used to bring him out of his place into the kitchen where the fire was, and then they used to sit by the fire, and talk about Religion; Walsh was a Protestant.

This witness having much more to say, was ordered to with-

draw, giving a pledge, that he would not speak of being examined here.

Mr. ROWAN sent for Smyth, who had been examined early in the day, and removed, that he might make a similar pledge, and save the necessity of being sent to another place. Mr. Rowan took occasion to say that he did not think every one of them would observe a pledge inviolably, but he was sure some of them would. Both witnesses pledged themselves not to disclose to any one the nature of their examination.

The Court then adjourned until Monday.

Seventh Day—July 17.

Mr. ROWAN, on the sitting of the Court said, that the individual Smyth, who left this on Saturday, had exhibited strong symptoms of insubordination. Mr. Rowan related some circumstances about the making up of the witness's bed on his return to his place of confinement, and his insolence to an officer. "This will force me," added Mr. Rowan, "to do that which is contrary to my inclinations, and that is, to lock up all the prisoners."

Mr. TOWNSEND, (to Mr. Rowan) "you appear to have a great many rules and regulations in the prison. Have you any printed copy of them?"

Mr. ROWAN—The prisoners are told by the Officers repeatedly, and by myself repeatedly, until they are conversant with them, the regulations of the prison. I thought it better not to make rules, *a priori*, but to adopt them to the exigencies of the time. There is an Order Book in which I write the orders for the regulation of the prison and the officers copy these. I thought it indeed better not to make fixed rules until I could have time and experience to sanction them; but this I can say that no one has ever broken through a rule of the existence of which he was ignorant—you can see the Order Book.

(The Order Book was produced, and the last order establishing some rules for the regulation of the prison, was No. 212.)

William Connell called in again and examined—(Cautioned not to speak of hearsay)—has told no one any thing that happened here since Saturday; told every one who asked him for information, that he could not tell any thing.—Knew William Anderson and Michael Toole to be reporting that they wished to go to Mass; they were before that Protestants; one of them, Anderson, was always a Protestant; Toole was a Roman Catholic until he came here, and then he changed his Religion.—(These prisoners being now in the prison, and of course being able to give testimony, the examination on this subject was prevented.)—Knew John Walsh, who was transported out of this, to be reporting for the Priest, and the Priest did not come to him; Walsh was nominally a Protestant at the time he reported for the Priest; does not know that he ever changed in this house to be a Protestant; supposes that those transported from this house are sent at the desire of the governor. Walsh was transported although he was a Protestant, but Walsh asked as a favour that he should be transported; Walsh told Major Palmer that he wished to go there. Major Palmer said that may be it was not to Botany Bay he would be sent, and Walsh said he did not care to the devil where he would be sent, provided he would be sent out of this place.

Knew William Elliott, who was also transported, to be reporting for the Priest; he was a Protestant, but Elliott told witness that he

went always to Mass in other prisons before he was transmitted to this place; the Priest did not come to him; heard Elliott tell the governor one day that he wanted to go to Mass, and the governor gave orders to the officer to lock him (Elliott) up for a month, and that at the expiration of that time he could go to Church or to Mass, whichever he pleased; at the time the governor said this the whole division, and also Mr. M'Cloy, the officer, was present. Is not sure whether Mr. Algeo was present or not. The day that Major Palmer spoke to Walsh, another prisoner, Cassidy, told Major Palmer that the governor locked him up for a week for asking to go to Mass. Major Palmer asked Algeo the reason of that, and Algeo said he remembered that Cassidy was locked up for something, (Cassidy being now a prisoner the examination was stopped.) Major Woodward and the governor came one day, he believes about fourteen months ago, to the division; the prisoners all as usual fell into their ranks, and the governor said this division was in a most subordinate or insubordinate, does not know which, (*a laugh*) manner, but at all events what he (the governor) meant was that it was disorderly. The governor said, they were striving to get forward and backward, between Church and Chapel, at their pleasure; there are, said he, some exceptions, and amongst them is one man, meaning witness, who was the only Catholic present, the others were not always Protestants; there was only one original Protestant (Anderson) present. "They are, said the governor, reporting for Mr. O'Donovan and Mr. Higgin, but I will teach them that neither Mr. O'Donovan nor Mr. Higgin is governor here; I will lock them up; I will put an end to superstition here."

Major WOODWARD—"Was I present?"

Witness—"Yes, Sir, and you did not say a word, but held down your head—M'Cloy was present then also."

Examination resumed—Mr. M'Cloy was removed from the ward. Keppell succeeded him.

Mr. TOWNSEND here remarked, that if Counsel were employed the business would be investigated by this time.

Mr. O'DONOVAN said, he had no objection, on the part of Dr. Murray, to employ Counsel.

Mr. ROWAN pointedly observed, that again Dr. Murray's name was mentioned as his prosecutor.

Mr. TOWNSEND said that he certainly did not recognise Dr. Murray at all as the prosecutor. Doctor Murray only did his duty in transmitting the Memorial presented to him to Government, but assuredly Mr. O'Donovan stood there as the other party.

Mr. ROWAN said, that with respect to Counsel, the proposition for not having the case investigated by them, was made by Mr. O'Donovan.

This was denied by Mr. O'Donovan.

Examination resumed—Keppell came into his ward one day, and witness was reading the Catholic Catechism, which Keppel took from him. The Chapter was on the succession of the Pope,

and Keppel read a passage which stated that the Pope was the visible Head of the Church, as being the successor of St. Peter. Keppel denied this, and ridiculed it, saying that St. Peter was never at Rome. Another Chapter on the nature of mortal sin, which Sin was called *mortal* because it *killed* the Soul, afforded another opportunity for Keppel to say that it was wrong, because the Soul never died. Keppel then took the book to Mr. Wood, and on Wood telling him (Keppel) that the book was a proper one and that it was allowed by the Prison, he gave it back to witness; witness never introduced the subject of Religion unless when he was provoked by the remarks of the keepers, to argue in defence of his own Religion; Keppel also introduced the Testament and argued on several passages of it; Keppel has very often said more than that, and expressed his astonishment that any person could argue in defence of such a Religion as the Catholic which was proved so distinctly by the Testament to be false. It is about twelve months since Keppel was over him.

Mr. Suter was a keeper over witness before Keppel was over him. On last Easter Sunday twelve months, was after coming from the Chapel, where some of the prisoners had received the Sacrament; Suter was standing in the yard, and asked witness who had not himself received the Sacrament that day, what was his belief of the nature of the substance of the Sacrament that had been just received? witness said, he believed it to be the Body and Blood of our Saviour, under the appearance of Bread—Suter asked was it believed for truth by witness that the Body and Blood of our Saviour was contained in that *small Sacrament*, "for, said he, you know our Saviour had a body, and do you think his nose, his eyes, his flesh, his hair, his toes, his entrails, and all are contained in that Sacrament?"—Witness was so affected, for he never before heard of such words uttered, that he was unable to say a word. Suter brought witness different books of controversy on that subject.

(Witness was here ordered to withdraw for a while; and all others, except Messrs. O'Donovan, Higgins and Rowan and the Note-taker.)

Mr. Townsend then said, that they had heard a variety of circumstances from the different witnesses to prove that means had, in many instances, been used; that the keepers had availed themselves of the power given to them to introduce controversial tracts and conversations, and that other instances of undue severity was proved, which might have had some connection with the purposes of Proselytism. If, however, there could he nothing distinctly proved against Mr. Rowan, or nothing different from what had been said, was there any use in prolonging the Inquiry? If those witnesses were to be believed, no more could be proved by the production of six of them than of three of them. Would it not be useless unless some additional facts were proved to prolong the enquiry?

Major Woodward followed at the same side, and asked if the

same evidence were given by the different witnesses, what gain could be had?

Mr. TOWNSEND said, that the gist of what was already proved was, that the keepers were in the habit of speaking on controversial subjects, and introducing conversations unpleasant to any Catholic to hear, and that this was done for the purpose of Proselytism. It would, therefore be well if Mr. O'Donovan would apply himself to the production of witnesses whose evidence would prove something additional to that already proved.

Mr. O'DONOVAN said, he would select some striking instances; and would also examine the witness on a subject which would bear directly on the case,

The Witness was recalled—Witness has often complained to Mr O'Donovan on the subject of the conversation on controversy into which he was in the habit of being brought.

Mr. TOWNSEND.—" Tell us some new things; for it is a waste of time to be relating the same things over and over again."

Told Mr. O'Donovan about Suter's and Keppel's conduct.

By Mr. O'Donovan.—He frequently told Mr. O'Donovan that he had reported for him, without effect; when he had reported two or three times for Mr. O'Donovan, without his attending to the reports, he used to tell him. When witness was in the lock up yard, his reports were generally attended to; when witness was in the liberty class, Mr. Hume was his keeper, and he has seen his (witness's) reports for Mr. O'Donovan, on the daily reports forwarded by the warder, Mr. Hume, although these ports were never attended to; thinks Hume so far did *his* duty; does not know whether the reports are transmitted directly from the warder to the governor, or are sent through the medium of an officer. Is here two years; came in a Roman Catholic; on the first day when he came into the prison was tampered with.—(Witness here referred to the testimony which he gave yesterday, in proof of the facts.) Bulbridge told witness immediately on his entrance, that there was no Catholic Chaplain; he did not believe him, the governor having intimated there was; was four or five weeks here before he went to Mass; is not sure, but believes some of them went a week before; cannot rightly say what kind of diet he got the Friday before he went to Mass; Catholics got, according to their own wish, a different kind of diet on Friday, to that of Protestants; does not know why he was kept for four or five weeks before he went to Mass; the governor told him the first day he came in that he could not be allowed to go anywhere until he had time to consider; is not aware that he misconducted himself in this period, but supposes he would not be allowed to go without the governor's permission; the governor came the day he was first allowed to go where he pleased to prayers, and the governor said, " Connell, I told you the first day you came in that you would not be let go anywhere until you had time to consider;"

and after asking of what Religion he was, determined, on the following day to give him leave to go to Mass; thinks at all events that more than three weeks elapsed before he was allowed to go to Chapel; frequently asked for the Priest; the three men who came into the prison with witness became Protestants, and went to Church before he was allowed to go to Mass. Patrick Daly, John Lynch, Michael Toole, (all nowhere) were their names; he heard when washing himself, that they went to Church; they were allowed, the Sunday before he was allowed, to go to Mass; he saw them from the windows. Besides them, the prisoners who came in with witness to the Penitentiary were, witness's sister, and another woman; his sister has not turned; she is still a Catholic; he sees her regularly; witness and his sister were tried and convicted together, at Limerick, for coining. The male prisoners above-mentioned told witness they changed in consequence of what Bulbridge told them; he told them it was their *best way* to turn. Thinks the Catholics and Protestants are differently treated in the prison; the crimes that Catholics would be punished for, Protants would be acquitted of.

Mr. TOWNSEND—"Is there any other difference in your opinion?"

Witness—"Is not that enough, your honor."

Mr. TOWNSEND—"Indeed it is, if that can be proved."

Examination resumed.—Knew John Smyth to be in a reduced class for three months, for striking another prisoner; Algeo told him this was his offence; he also saw two convicts striking one another, and they were reported and locked up; Mr. Algeo came to inquire into the business, and liberated them; Daly was the person who struck O'Donnell first, they were in a bustle a (conflict) they were engaged regularly, they were both Protestants; it is in the power of Mr. Algeo to stop the wages for weaving a piece, and on account of there being a small hole in it, which witness did not endeavour to conceal, he was stopped of his earnings for weaving it; has heard that Pat. Rattigan had been paid for a piece which he wove, although it was torn in a similar manner; can't say that he knows any distinction made between Catholic and Protestant, in the giving of the trade.

Cross-examined by Mr. Rowan.—Never was punished by the governor all the time, about a year, that he was in the lock-up class; always praised him for his good conduct; the governor has told witness thot he respected *him* more for remaining firm in his Faith, than he respected those who were changing *back and forward* for the sake of gossiping, and the sake of ingratiating themselves with him (Mr. Rowan.)

Mr. ROWAN—"You may withdraw."

Witness—"I have something else to say."

Mr. ROWAN—"If this returning to the subject should be allowed, the thing will be interminable."

Was at school with Mr. Hume and Wood; was giving explanations on the weakness and liability of man to sin; John Smyth said

that it was not in the nature of man to be free from sin; Anderson said to him, "I suppose it is because you have a purgatory, you say so; there is many a man without sin;" Smyth said to Anderson that he might speak more civilly and not to offend any body's Religion; Anderson persisted in maintaining his opinion; the schoolmaster, Mr. Wood, was present; witness said to Anderson, that he would speak to him about such conversation when school was over, and would let him know that he should not go on so; witness, Smyth, and Connell, all Catholics, then reported to see the governor, Mr. O'Donovan, and Mr. Higgin; on the next morning they expected that Hume, the warder, would have reported for the purpose intended by witness and his companions; he did not, however, report, and witness is persuaded that if the fault lay at his (witness's) side, he, Hume, would have reported; witness again told Mr. Bailey, another warder, to report for Mr. O'Donovan; Mr. O'Donovan did not come on that report; another day witness told Mr. Bailey to report for Mr. O'Donovan; Bailey said he reported before for Mr. O'Donovan, and he did not come, that may be, he (Mr. O'Donovan) was busy, and that he would not report again; witness said, "no matter, report for him, for I will report for him to-day and to-morrow, and every day until he comes, and remember now, I call all the boys in the division to witness that you refuse.

Witness was here ordered by the COURT to withdraw, and was told that he was going back to his division on the same conditions as yesterday, namely, that he should not mention any thing he heard.

Witness, who seemed to have a very solemn sense of the obligation of an oath, inquired anxiously, how long he was bound to silence—and inquired if he would not be allowed to answer questions that were put to him by his fellow prisoners on the subject of the inquiry, when it was over; witness was told he should not mention any thing until he was permitted; witness assented, and withdrew.

Here the COURT sent for Smyth to admonish him on some symptoms of turbulence alleged to have been committed by him after his withdrawing on Saturday, in the expectation, as was asserted by Mr. Rowan, that he was freed, in some measure, from restraint by the Court of Inquiry.

Mr. ROWAN said, that it was necessary to preserve discipline correctly—Lord Combermere said, that in the Army he never saw any thing like the order and discipline existing here. Mr. Rowan here remarked, that persons whose names were signed to this Memorial, he was bound to say never signed it. He was able to say that some of these persons were in attendance, and were never brought forward, probably for the purpose of injuring him by suppressing their evidence.

James Algeo, John Fitzpatrick and John Suter, proved having seen Michael Lynch, who was discharged from the prison last April, and whose name is signed to the Memorial, in Dublin, and

on one occasion outside the Penitentiary door. Algeo swore that Lynch told him he did not wish to come forward on the Investigation ; Algeo said to him that it was the wish of the governor, and every person connected with the governor, that the fullest investiation should be ; Algeo swore that Lynch told him that he never signed it, and said that he met Mr. O'Donovan in the street, and asked him "how he dared to write his name in it; Mr. O'Donovan very indignantly protested, on his oath, that he did not know that Lynch was in town, and distinctly swore that he never had any conversation of the kind alluded to.

Here a letter was produced, alleged to be from Connell, one of the subscribing Memorialists, dated from Cork, thanking Mr. Rowan for his kindness to him ; Connell it was proved, *could not write.* There were, however, two letters in the hand writing of Dr. Quarry, the Prison Inspector, one of these bore date from Cork, and professed to detail the gratitude of Connell and his wife to Mr. Rowan, for his conduct to them—one exhibited in a conversation with Dr. Quarry, *in Cork*—the second letter was written *from Abbott's Hotel, Dublin, dated July 6th current*, and from the admission of Mr. Rowan, it appeared that it was written after a conversation with Mr. Rowan, and, of course, at his request, dthe letter appeared in to be written to negative the fact of Connell and his wife agreeing the Memorial. The letter written in Dublin was an echo of the first.

Mr. ROWAN again returned to the hardship of a person not being produced, who, he believed, would swear that he never signed the Memorial, and that his name was affixed without his sanction.

Mr. O'DONOVAN swore that he did not know where to find Connell, not knowing his residence. The Rev. Gentleman solemnly pledged himself on being told by some of the officers present where his residence was, that he would do all in his power to procure his evidence, and that he would even go himself in order to secure his attendance.

Mr. ROWAN objected, and said, of all others, he should not communicate with him. Mr. R. again adverted to the cruelty of depriving him of the value of Connell's letter from Cork.

To a question from the COURT.—Mr. ROWAN said, Lynch was a Catholic here, but he has become a Protestant since he left this; because, he says, he did not like to go to Church here, lest he might be suspected of wishing to ingratiate himself with the governor. He said he went to Church for twelve years in the army.

Smyth—(the witness who was examined on Saturday, and of whose conduct, subsequently, there was a complaint) was called in to account for the misconduct alleged against him, and was told he was on his oath, and to be cautious in his answers.

Examined.—Smyth alleged that Mr. Hume came in yesterday morning, and looked at witness's bed, which was folded up, this was when he came in, he then only looked at the bed, and said nothing, but seemed to intimate by his countenance an approval of

the manner in which it was done; in about an other hour, when the prisoners were in the yard, preparing to go to Mass, Hume again came and said he would throw down his bed, and in reply to witness's question, he (Hume) said it was badly made up; witness said that the bed was very well made up, and that he did not for two years make up a better bed; when Hume was going to throw it down, witness begged that he would not throw it down until Mr. Suter, the head turnkey came; Hume asked him how dare he speak to him about Mr. Suter? Hume then said he should make up his bed at Church hour; Flanagan (brother to the man who spoke the words related in yesterday's evidence, to whom Hume mentioned the business in the corridor) told witness that no man should interfere in his (Hume's) business; Hume threw down the bed, and from the manner in which he spoke to witness, witness was dreadfully agitated. This witness proved the bed to have been as well made up as any other bed.

Robert Hume (the person mentioned in the foregoing statement) was sworn, and deposed that the bed was improperly made up; witness acknowledged that probably the prisoner (Smyth) could not make up his bed in the same "tasty way," as those other prisoners in the division, who are accustomed to his method of making up the beds; Smyth has been only two or three days in witness's division; the bed on yesterday was not worse made up than on Friday, the first day he came to the division, or Saturday the day preceding yesterday; but (he witness) sent word by the cleaner, on Saturday to Smyth, that his bed was badly made up. (It appeared, from a cross-questioning of both these witnesses, that the beds in Hume's division were made up with more particularity than in the division in which prisoner had been before.)

Major PALMER here observed, that it required practice; and the witness himself, here observed, that Smyth could not do the thing so well as those who were accustomed to the manner of doing it.

Mr. TOWNSEND here told the prisoner to remember, that the prison discipline was in no way relaxed by the sitting of the Investigation.

Smyth expressed his full concurrence, and said, he would only expect justice, such as the Protestants had; witness was again returning to a conversation which he had yesterday, with a man named Michael Whlte, a Protestant, relating to the sufferings of John Smyth, but was interrupted by the Court, saying, that they would examine the individual himself.

Mr. ROWAN again cautioned Smyth, and told him not to expect that, from the circumstance of his being examined, he should expect any relaxation of the prison discipline, and recommended him not too see things with a jaundiced eye; the treatment which he was to receive, would be no way altered.

The COURT again expressed a wish, that witnesses should not be called on who could prove nothing new; it could avail nothing; if the prisoners were to be believed, there was no use of bringing different witnesses to prove the same thing.

Mr. ROWAN.—It will not be the same thing with me; the public will think severely of me in proportion to the number of witnesses agreeing to the same facts, not considering the character of the witnesses, *their* credibility will be increased.

John Smyth examined.

Is a prisoner, and came here the 18th September, 1823; is a Catholic, has been always so; no one ever tried to make him change his Religion; no reward has been held out to induce him to change, nor any prospect of ill consequences, if he did not change; thinks however, that he has met with treatment that he would not have met with, if he were a Protestant; knows several instances of that.

Was confined for fourteen months, within a few days, in the third class, and has seen Protestants advanced after a confinement of five or six months; and one particularly, after being confined only for three months; these persons were, John M'Kee, and John Hobson, (now here) these were confined closely for five or six months, and Patrick Ward, (not now here) who was advanced in three months; there may have been reasons which witness does not know, for their advancement, but he has reason to suppose, that Ward, who changed his Religion here, was advanced for changing his Religion; cannot say that he had changed his Religion before he was advanced, but has reason to believe that he *promised* to change before he was advanced; heard Ward say to himself (witness) for they were in the same division for some time, that he expected to be out in a year of confinement, and that he would therefore do all he could to please the governor; Ward did not say any thing specific about Religion in this conversation; thinks that Ward, in saying so, meant that he would comply as far as he could with the rules; and suspects also, that he meant, that he would comply in the other way; has no other reason than this, for supposing, that Ward promised to change his Religion.

Thinks there was a very strict watch on himself, more strict than that after others, and attributes it to his being a Catholic, and perceived that things were omitted to be reported of others, that would be reported of *him*, if he were guilty of them; cannot now exactly call to mind the particular instances.

Mr. TOWNSEND here complimented the witness on his intelligence, and the caution he shewed in giving his evidence, and the fairness of it.

Witness in reply, said, that it was his duty, as he came here to tell the truth.

Has known himself, in the weaving room, to have been reported for taking a few bobbins out of a weaver's box to use, and has known others who were Protestants do that, and *not* be reported, and for going there and taking these few bobbins half the earnings on that web which he was weaving was stopped; taking bobbins out of another man's box was certainly contrary to the rules, but what

witness complains of is, that Hume, who was the officer, reported him for the offence, which he passed over in others. On the occasion alluded to, witness was taking the bobbins against the will of the man in whose possession they were, but thinks the crime was increased additionally by his being a Catholic; thinks that taking bobbins with the will of the fellow prisoner in whose possession they were, and taking them against the will of the prisoner, is the same offence against the governor's rules.

Has reported for Mr. O'Donovan, and he has not come; perfectly recollects twice reporting for Mr. O'Donovan; remembers well the days of the month; these reports were made in the absence of Mr. Rowan last year; reported to Mr. Bailey, and believes he made the report to the gentleman then in charge; reported on the 24th and on the 28th days of June, 1825, for Mr. O'Donovan; cannot say how soon, but believes it was in the following month of July, that he saw Mr. O'Donovan, and then he told him (Mr. O'Donovan) he had reported for him, and how displeased he (witness) was at his (Mr. O'Donovan's) not coming. Mr. O'Donovan said to witness that he never got the report. Has a reason for thinking there was a difference made between Protestants and Catholics. A circumstance or dispute occurred between John Duffy and John Monaghan in the garden: this occurred before the governor went to England; it was in May, 1825: these persons were quarrelling, one knocked down the other; witness being nearest at hand, came up and separated them; Mr. Hume and Mr. Coombs, another officer, ran down and asked witness how did the matter occur; witness was explaining the thing, and Duffy came over to witness and said "*he would knock the long head off him*" (witness). Witness struck Duffy then; Murtagh, another prisoner, came up, while witness was engaged with Duffy, and Murtagh struck at witness; the case was investigated before the governor, who ordered witness to be reduced from the second and third class, and to be confined to his ward, and put on bread and water for a few days. Monaghan, who first knocked downDuffy, who was a Protestant here, was formerly a Catholic—he was acquitted; Duffy who had changed to be a Protestant was confined for eight days, three of these days on bread and water; Murtagh was confined two days, and witness was confined from the 18th May to the 10th August.

It being now three o'clock, the hour of adjournment, the witness was ordered to withdraw, and at the request of the governor, the Court told the witness, that by the law, (he being a convict) was an incompetent witness in a Court of Justice, and that here also, his testimony would not be admitted, only that otherwise the Investigation could not proceed; (this was done at the request of the governor, that the prisoners generally should be impressed with a sense of their own degradation;) witness was also cautioned, on his oath, not to say to any person that he had been examined here, nor to tell any thing that had occurred.

The Rev. Mr. HIGGIN, in conformity with the wish of the Court, expressed yesterday, handed in the following list, which was received; but the Court requested him to prepare, by to-morrow, a list, of a different form, which was described.

LIST OF PRISONERS, NOW PROFESSING THE PROTESTANT RELIGION, IN THE RICHMOND GENERAL PENITENTIARY, JULY 17, 1826.

NAMES.	What Religion on coming.	Observations	NAMES.	What Religion on coming.	Observations
Owen **Moriarty**, ...	C. now a P.	Originally C.	Catherine **Walsh**, ...	P.	Originally P.
John **Gildea**, ...	do	do	Margaret **Darcy**, ...	do	C.
Patrick **Connor**, ...	do	do	Mary **Carroll**, ...	do	do
John **Johnston**, ...	do	P.	Bridget **Sullivan**, ...	C. now a P.	do
Richard **Walsh**, ...	P.	do	Margaret **Sullivan**,	P.	P.
John **Fury**, ...	do	do	Michael **White**, ...	do	C.
John **Ferguson**, ...	do	do	John **Russell**, ...	do	do
William **Lawless**, ...	do	do	Betty **Cronan**, ...	C. now a P.	do
Catherine **Langan**,	C. now a P.	C.	Mary **Crowley**, ...	P.	do
Sarah **Grady**, ...	P.	do	Mary **Lane**, ...	P. now a P.	C. but here P. C. P.
Sibby **Mulally**, ...	do	P.	William **Atkins**, ...	P.	P.
Ann **Donnelly**, ...	C. now a P.	C.	Eliza **Garrett**, ...	do	P.
Rebecca **Smith**, ...	P.	do	Peter **Walsh**, ...	do	C.
Rose **Dowling**, ...	do	P.	Edward **Aherne**, ...	do	P.
Andrew **Little**, ...	do	do	Patrick **Tuoney**, ...	do	C.
Stephen **Hendrick**,	C. now a P	C.	Patrick **Barry**, ...	do	C.
Cornelius **Callaghan**,	do	do	William **Clarke**, ...	do	P.
Charles **Grey**, ...	P.	P.	James **Herbert**, ...	do	C.
John **Walsh**, ...	do	C.	Kitty **Reilly**, ...	do	C.
William **Murray**, ...	C. now a P.	do	William **Henry**, ...	do	P.
David **Drinan**, ...	do	do	Michael **Brazill**, ...	do	C.
John **Hobson**, ...	P.	P.	Mary **Duig**, ...	do	C.
Margaret **Carroll**, ...	C. now a P.	C.	Catherine **Burke**, ...	do	C.
John **M'Kee**, ...	P.	P.	Catherine **Conlan**, ...	do	C.
Margaret **Healy**, ...	C. now a P.	C.	John **Grey**, ...	do	C.
Arthur **Hanratty**, ...	do	do	Mary **Boyle**, ...	do	C.
Edward **Aylward**, ...	do	do	John **Barry**, ...	do	C.
Bridget **Richardson**,	P.	do	Michael **M'Namara**,	do	C.
Michael **Costello**, ...	C. now a P.	do	Pat. **M'Namara**, ...	do	C.
John **Rieley**, ...	do	do	Nicholas **Rooney**, ...	do	C.
Anne **Murphy**, ...	do	do	Patrick **Carr**, ...	do	C.
Mary **M'Laughlin**,	do	do	James **Feeny**, ...	do	P.
Eliza **Whitacre**, ...	P.	P.	Anne **Byrne**, ...	do	C.
John **Bulbridge**, ...	do	C.	Mary **Green**, ...	do	P.
Miles **Cassidy**. ...	do	do	Jane **Hanlon**, ...	do	P.
Margaret **Stokes**, ...	do	P.	Michael **Smith**, ...	do	C.
Margaret **Dunne**, ...	C. now a P.	C.	Eliza **Ewing**, ...	do	P.
Margaret **M'Donald**,	do	do	Mary **Patterson**, ...	do	P.
Mary **Frazer**, ...	do	P.	Margaret **Connell**, ...	do	C.
Sarah **Martin**, ...	do	C.	Eliza **Hore**, ...	do	C.
Mary **Gallaher**, ...	P.	P.	Bridget **Cullen**, ...	do	P.
Catherine **M'Donough**,	do	C.	Thomas **Magrath**, ...	do	C.
Patrick **Ratigan**, ...	do	do	William **Johnston**,	do	C.
Sarah **Donnelly**, ...	C. now a P.	do	Michael **Watters**, ...	do	C.
John **Shaughnessy**,	P.	do	Catherine **Foley**, ...	do	C.
John **Barry**, ...	do	do	**Michael Donohoe**, ...	do	C.
John **Kerr**, ...	do	P.	Mary **Ryan**, ...	do	C.
William **Anderson**,	do	do	Harriett **O'Brien**, ...	do	doubtful.
James **M'Larren**, ...	do	do	Margaret **Reilly**, ...	do	Originally C.
Eliza **Mellish**, ...	C. now a P.	C.	Mary **Russell**, ...	do	C.
Margaret **Mulrine**,	do	do	Anne **Browne**, ...	do	P.
John **Lynch**, ...	P.	do	Mary **Kelly**, ...	do	C.
Michael **Toole**, ...	P. now a P.	C. but here first a P. then a C. then a P.	Mary **Magrath**, ...	do	C.
			Honora **Flaherty**, ...	do	C.
Peter **Daly**, ...	do	C. but here P. C. and P.	Constance **Carroll**, ...	do	P.
			Mary **Moran**, ...	do	C.
Eliza **M'C rthy**, ...	P.	P.	Honor **Courtney**, ...	do	C.
Michael **O'Donnell**,	P.C. now a P.	C.	Mary **Manning**, ...	do	C.
Ann **Morrison**, ...	C. now a P.	do	Mary **Harrington**, ...	C. now a P.	C.
Mary **Lynch**, ...	do	do	Margaret **Connor**, ...	P.	C.
James **Tighe**, ...	P.	do	Mary **Connor**, ...	do	C.
Philip **Martin**, ...	do	do	George **Miller**, ...	do	C.
Thomas **Martin**, ...	do	do	Michael **Ryan**, ...	do	C.
Pat. **Donnelly**, ...	do	do	Pat. **Dowlan**, ...	do	C.
Mary **Flinn**, ...	P. now a P.	P. but here P. C. P.	Terence **Murphy**, ...	do	C.
			Honora **Farrell**, ...	do	C.
Richard **M'Cann**, ...	P.	C.	Mary **Flinn**, ...	do	C.
Cath. **Fitzpatrick**,	P. now a P.	C. but here P. C. P.	Catherine **Geran**, ...	...	C.
			Ann **Kirby**, ...	...	C.
Catherine **English**,	P.	C.	James **Rossiter**, ...	...	P.
Johanna **Sullivan**, ...	do	do	Ann **Eagar**, ...	...	C.
Mary **Fitzgerald**, ...	do	do			

I hereby certify, that, to the best of my knowledge, the above is an accurate list of Prisoners, now professing the Protestant Religion, in the Richmond General Penitentiary.
July 17, 1826. WILLIAM HIGGIN, Resident Chaplain.

Hence it appears that there are, Protestants, originally Protestants, ... 39
Protestants, originally Catholics, ... 102

Total Protestasts in the Penitentiary, ... 141

Eighth Day—July 18.

The examination of Smyth, the witness produced yesterday, was resumed—Witness, on being asked did he mention what occurred here yesterday, swore that he did not mention it; at the same time he heard from a fellow prisoner what had occurred here.

After the injunction of secrecy that had been laid on the witnesses and hearers, this deposition excited some surprise.

Mr. O'DONOVAN demanded that the prisoner should be produced. —Objected to.

With respect to Duffy, Murtagh, and Monaghan, witness was reduced for three months; struck Duffy, and had some cause for so doing, which he mentioned yesterday; Murtagh as he stated struck, likely, without cause; Murtagh (who was a reformed Protestant) however, was confined for 28 days, and witness was reduced for three months, and fed on bread and water for four days. The case of John Walsh and Jeremiah Coghlan was similar; this occurred the same year, 1825, and a short time before the case last stated. Jeremiah Coghlan was at work in the garden, so was Andrew Little; Walsh and Little are now in the prison. A. Little sent a trifling message to John Walsh by Coghlan; as well as witness recollects, it was something about making or mending shoes; when John Walsh received the message he was not well pleased, and he rose from the table where he sat at dinner or supper; forgets which meal it was, and struck Coghlan, and repeated his blow. Mr. Hume was the officer of the division; some of the men at the table interfered and did not allow Walsh to strike any more; the officer interfered, and then confined both Coghlan and Walsh; the punishment which Walsh, who was a Protestant coming in here, received, was seven days confinement to his ward, and to be kept on bread and water for that time; witness's reason for stating that fact was, that he, witness, was not more guilty in the act *he* had done, and the punishment was very different; Walsh was in the same class (the 2d) and so was Coghlan, with witness; Walsh was not reduced; witness *was* reduced to the lock-up class for three months for *his* offence—(witness added to his testimony of yesterday, regarding the advancement of Protestants)—Stephen Hendrick, Andrew Little, and Cornelius Coghlan were advanced to the second class in about six months after coming here; these persons were Protestants; Little was originally a Protestant; Hendrick and Callaghan were Protestants at the time they removed up, but they were converts; M'Ghee and Michael Carroll were Catholics, and were advanced at the same time; Carroll was, however, for many years confined in the Cork depot before he came here; witness does not know that Carroll was ever in the third class. and M'Ghee was, he believed, four years confined; they were cleaners; witness himself was confined much longer than the others he mentioned; Goold (before examined) came here also with witness, but

witness does not know that he was ever confined at all. The case of John Russell, was in the governor's absence in England last year, and is a stronger one. Russell reported that he wished to go to Mass—is not sure that the governor was absent the first time that Russell reported, for he reported more than once.

Mr. ROWAN—"It is really horrifying to think how little Religion most of those who come here have on their entrance. Many of them have no knowledge of a God, unless to swear by Him; and many of them have no knowledge of a Trinity."

Mr. TOWNSEND declared his conviction of the truth of the statement.

Mr. O'DONOVAN—I think that is going too far. I have conversed with most of those persons, and I have not met with that dreadful ignorance; and I have certainly met persons in a prison as well conducted at the time as those who were in society.

Mr. ROWAN complimented the witness on his great intelligence.

Witness was tried for uttering a forged note. Declares on his solemn oath, that he never in his life had to do with a false note, but that note which was passed to him in business, and which he then endeavoured to pass. The Jury recommended him to mercy, which was the cause of his being here.

Russell reported to go to Mass, and stopped going to Church, and remained so for the space of seven or eight weeks without going either to Mass or to Church; part of his food he refused on Friday, the meat part; Russell is here now, and Russell remained this way until the governor came home. The governor came into the division where witness and Russell were; it is usual to parade all the prisoners when the governor comes; there were then only two professed Roman Catholics in the ward. The governor, when he came, asked all the prisoners how they were; the governor appeared to be very glad to see them; the governor then told all the Roman Catholics to quit the room as he had something to say; witness and the other Catholics then present quitted the room; witness remained outside of the door listening. The governor talked for some time to Russell, and asked him his reasons for wishing to go to Mass? The boy (Russell) gave him his reasons as well as he could. After the governor had spoken to him for some time, he told him he would allow him to go to Mass. The other Catholic who was turned out of the room was hard of hearing, and was walking in the range. The governor, when he told him (Russell) that he would allow him to go to Mass, said he would watch him, and that if he did not, he would find those who would—(Here the witness remarked what a painful statement this was to him to make, and expressed his hope that he would be forgiven for it—Mr. Rowan told the witness not to fear)—Algeo spoke to Russell also, but witness did not hear what he said; the Rev. Mr. Higgin, who was also present, spoke; Mr. Higgin asked Russell was not his reason for going to Mass that he heard the Priest could forgive sins? the boy distinctly answered,

that was the reason. Mr. Higgin answered to that, in these words, "Russell, you are not a member of the Roman Catholic Church; I do not hesitate to say to you all (meaning the prisoners then present) that all the Priests and Popes in the universe have it not in their power to forgive sins; it is Christ alone forgives sins, and his Blood cleanseth from all sin."—Has no more to say on the subject. The governor then allowed Russell to go to Mass; Russell went for a few days and then relapsed into Protestantism.

Russell while he was going to Mass for the few days, was in the rope-walk and misbehaved there in some improper way, he was confined in the place of solitary confinement, commonly called the "Piggery," for thirteen days on bread and water. On the morning of the thirteenth day he gave his consent to go back to Church again, and he was restored to his prison, and to the prison allowance—(witness here went back to Russell's case in the governor's absence in England)—while Russell was asking to go to Mass, and while Bailey the officer was preventing him until the governor returned, a prisoner named Brazill came into the prison, he was allowed to go to Church; Brazill was a Protestant coming in, and witness thinks that there ought to be no difference between a man wishing to change his Religion, and to go to the place of Worship he wished for, and a man who declared his Religion. Believes that although Brazill declared himself a Protestant he was really a Catholic; thinks there was no occasion for the governor being at home to sanction Russell's change; does not remember that any Catholic came into the house during the governor's absence.

Berry or Barry, a prisoner, came here on the 18th August, 1825, that was the day that witness was restored to his second class; Barry took witness's place in the third class; it is the rule that on a prisoner's first coming, he takes a place in the third class; the door of witness's place in the third class was open for the boy Berry or Barry, to enter; as prisoner was coming out, the boy said to Algeo, crying "Is it here I am to remain for my seven years?" Mr. Algeo told him, smiling, that it was; witness did not leave the yard of the division until after breakfast, and Barry said to witness, that he was a Catholic; Algeo remained with Berry in the ward, for about ten minutes, and then went out; witness who was in the yard walking up and down, saw Algeo coming out from the boy, with some things which appeared as if to have been got from the boy; it is customary to take every thing from the prisoners; amongst the things, was a small red covered book, which the boy afterwards told witness, was a Catholic prayer book; witness asked Berry why he gave up his prayer book? and Berry said, that Algeo took it from him, and said that he would be supplied here with books. (Here the examination was stopped, this being no evidence, as Barry was transported long since, and witness had only heard this statement from the boy alluded to.)

To a question of the COURT, witness said, he is confined here two years and ten months, this day, and was tried at Green-

street, in this City; witness believes that he was asked the day he came in, of what religion he was, but does not know that at that time, there was any rule, such as is now stated, to be in use, that every prisoner coming in should undergo a probation, before he declared his religion.

Witness stated, that he had undergone punishment for asking the Priest in the Chapel for a prayer book, for a boy of the name of Costelloe; it is contrary to the governor's rule, for any one to speak to the Priest in the Chapel; Costelloe, the same person, was sitting by witness in the Chapel, and he said to witness that it was a poor case that the Priest did not bring him the prayer book he promised him, and said he, "I will now speak to him (Mr. O'Donovan) myself about it." Witness volunteered to speak, and told Costelloe not to mind it; witness did speak to Mr. O'Donovan, as he was standing on the Altar, and begged he would not forget to bring Costelloe the prayer book; Mr. O'Donovan said he would not forget. At the same time, a man of the name of Bulbridge, who had been a Catholic, but at that time was a Protestant; reported him to Mr. Higgin, alleging that he (witness) remarked to him (Bulbridge) on his, (Bulbridge's) reading his Catechism, that if he (Bulbridge) continued to read that Catechism, he would go to hell—witness never said so, on his oath; however witness was arraigned before the governor on both charges; the governor asked witness, why he asked a prayer book for Costelloe in the Chapel; witness replied, that Costelloe, desired him to do so; Costelloe at the investigation denied this; the governor believed Costelloe and Bulbridge, and disbelieved witness, who was then removed to another Division, and confined to his cell for seven days on bread and water; witness here detailed several instances of tormenting annoyance, which had been inflicted upon him, and which he attributed to religious persecution, amongst others, taking away his Testament, Catechism, and Prayer Book.

Mr. ROWAN said, that it was quite a common practice in the discipline of the house, to take away their books from the prisoners, in order to punish them, and that in confinement it was a very great privation.

Mr. O'DONOVAN—"Well I protest I do not think it right to deprive a man of his Prayer Book, no matter how closely he may be confined. Such a book, is to be sure, a consolation to a man religiously disposed; but if he be at all sensible, such a book will improve his mind; it certainly is a severe and injudicious punishment to deprive a Catholic of a book that disposes a man to communion with his God!!"

Mr. ROWAN—"That is a quite a question of discipline."

Witness said that he wished once to have a book purchased for him out of his own earnings; a book called the History of the Old and New Testament; it is a Catholic Book; the books Catholics are allowed are, Prayer Books Testaments and Cate-

chisms; the testaments and spelling books are paid for by Government; the Protestants get books fit for them, without purchasing; still witness was not allowed, out of his own earnings, to purchase the book he desired; witness spoke to Mr. Higgin to use his influence with the governor; he said he would ask him for it.

Mr. ROWAN said that he believed Catechisms or Prayer Books were not allowed gratuitously by Government to the Catholics; the Protestants were allowed Prayer Books, and the Protestant Catechism is contained therein; the Catholics must purchase their Catechisms and Prayer Books.

To a question from Mr. O'DONOVAN—Mr. Higgin, the protestant Chaplain, said, that bibles were circulated in the prison, but they were the grant of the Capel-street Association for encouraging Christian Knowledge; there are not Bibles sanctioned by the Catholic Church in the prison. The Catholic Bibles are expensive—(The witness expressed his great desire for an authorised Version of the Scriptures, and said that the prisoners would all be gratified by such a gift.)

Mr. TOWNSEND enquired the reason why the Protestants should get Prayer Books at the expense of the Institution, and the Catholics be obliged to pay for them?

Mr. ROWAN explained that he found no precedent for giving Prayer Books to the Catholics. When he came, he found the Protestants supplied gratuitously. In compliance with Mr. O'Donovan's desire that the Catholics, whether they were obliged to pay for them or not, should be supplied with them, he, Mr. Rowan, procured a quantity of the authorised Prayer Books, which he now sells to them, and they purchase them out of their earnings.

Mr. O'DONOVAN replied, that the fact was this—the Protestants got books for nothing, and the Catholics were obliged to pay for them.

Mr. ROWAN, who now for the first time appeared to think that it was a hardship for Catholics to pay; said, that in future he saw no occasion for withholding books gratuitously. If it had been mentioned to him before, the measure would have been at once adopted.

Major WOODWARD said that the matter was so obviously just in favour of the Catholics, that he was only surprised it was not mentioned, and if mentioned he would be still more surprised if it admitted of discussion for a moment.

It appeared to be the feeling of the COURT that the Catholics should, in this particular, in future stand upon the same grounds with the Protestants.

Mr. TOWNSEND asked is it necessary to get an order of Government on the subject?

Mr. ROWAN—Oh no, certainly not.

Examination resumed—Controversial works have found their way into the prison; they have been supplied, not, he believes, by the governor, or with his knowledge, but they have been supplied. Nelson's Festivals, Scripture Guide, Protestant Catechism, or Brief Confutation of Popery have been in the prison.

Mr. ROWAN, to an observation from the COURT, that it would be well if all controversial works, for the sake of discipline, were excluded, observed, that he had a right in his own drawing room to read what he pleased; and in like manner there were pious men who had a right to read in such places as were not a general resort for prisoners, the books conformable to their faith.

To a question from Mr. O'DONOVAN—Thinks that books of an offensive kind to Catholics may have been in the prison without the governor's knowledge, but he is well convinced that books of controversy favourable to Catholics would not be long in the prison without his knowledge. Did report for Mr. O'Donovan when he was under punishment for the affair of Duffy on the 24th of June, but did not see him.

Mr. O'DONOVAN here remarked that there was Mass on that day in the Chapel, it being St. John's Day.

Witness was here ordered to withdraw, being previously cautioned to be secret; as he was going out he was called back and asked if he knew any unfair means being used towards himself or others to make them change their religion. Witness, said that to himself there were no means used, but the day after, Brazill, of whom he before spoke, came into the prison, he saw his (Brazill's) officer, Bailey, who is now in the prison, bring a Bible into him into his Ward. Witness adverted to a passage read for him out of a book, the name of which he does not know, by an officer, Mr. Somerville; it occurred in March, 1825; was at a certain work in the yard; was working in a pit cleansing out the necessary; Mr. Somerville came over him and said "John, I want to read a passage for you, and I want your advice." The passage stated that a Catholic gentleman married a Protestant lady, on condition that he would never ask her to change her Religion. Sometime after the gentleman fell sick and was at the point of death; he sent for the Priest who was preparing to administer the rites of his Church; the wife was assisting the Priest to prepare the Viaticum or Host; when he was going to administer it to him she cried out "I have put poison in it, do not poison my husband." Somerville said, "What do you think of that?" and retired.

Michael Lynch called.

(This is the person for whose appearance Mr. Rowan expressed so much anxiety)—On the book being handed to Lynch he said, before he gave any testimony, he would ask the governor for a character.

Mr. TOWNSEND said there was no occasion for his then giving it.

Witness requested of the governor to give him a character.

Mr. ROWAN said that he did not feel himself called upon then to give him a character.

Mr. O'DONOVAN said he certainly thought the present was a very suitable time to give it to him.

Mr. ROWAN replied, "that was a question of opinion."

The witness was ordered to withdraw while this conversation was going on.

It appeared from the statement of witness that he was entitled to a pension, which he drew while he was in the prison up to the period of the governor, Mr. Rowan, coming into office, and from that time it was stopped; and that on his leaving the prison he got a discharge in the usual form, which he transmitted to the War Office, for the purpose of getting his pension again, which discharge was never returned, and which was now necessary for him.

The COURT here interfered—and after some conversation decided that the man was entitled to a duplicate of his discharge, which Mr. Rowan guaranteed to give him in the evening.

When the witness asked for a character he meant, according to his own explanation, a copy of his discharge. He was now called in and told he would get a copy of his discharge in the evening.

The examination commenced.—Knows of the Memorial having been forwarded to Archbishop Murray; he did not sign that Memorial; he did not sign it, for he cannot write; heard the Memorial, however, read, and agreed in its contents; heard Peter Capper read it; knew his name was to be used as one of the Petitioners, and authorised it to be used; was a prisoner since 1821, was discharged on 21st April, 1826; was here nearly five years, was a Catholic since he came into the Institution, and is one still, was a Protestant when he was in the army; would go to Church here too, only that he was afraid the prisoners would say that he turned for interested purposes; means were used by officers of the Institution to induce witness to change his profession; M'Cloy, who was in office, was the first person who asked him why he did not follow the religion he professed in the army? Witness told him that he would never, while in the Institution, change the Religion which he professed on entering it; and witness said, that all his family were Roman Catholics and so would he be; thinks the Catholics in this Institution were treated with more severity than the Protestants, for misconduct; thinks if the Catholics were well conducted, there was no difference made between them and Protestants; last year, when the governor was in England, witness was in the kitchen, so was Andrew Little, a Protestant, he broke into the women's place in the laundry from the kitchen; witness supposes that this act was reported to the governor when he came home, for the governor questioned witness about it in the corridor; witness told the governor how the matter occurred; the governor asked him had he, witness, ever had any falling out with Andrew Little? Witness said he had not; supposes the governor disbelieved him, for Little got no punishment whatever for this, and thinks if a Catholic had so transgressed, he would be punished at all events; never heard of any investigation into this offence which Little committed; does not know what defence Little made; there was no Roman Catholic concerned with Little in the affair; witness did not see Little going

in there, nor did he hear him confess that he went in; saw the place through which he went, and heard that the women were severely punished; all he knows is, that if such information were given against a Catholic, guilty or not, he would suffer for it; thinks a Catholic would be punished—there was Patrick Dooley, who is now in the prison, who was put into confinement for three or four days when he first came in, until he declared his religion; thinks that the reason of confining the prisoners, now, before, they declare their religion is, that they may have an opportunity of going to Church; many men come in Catholics and become Protestants, and if there were not means of a certain kind used, they would not change in that way; witness had not many opportunities of knowing the affairs of the prison; he was mostly confined to business in the garden, part of his time, and in the kitchen for two years; witness, himself, was never treated severely for being a Catholic, and was never at all under punishment in this Institution; saw Walsh, who was since sent out of this, once gagged with a key in his mouth, and handcuffed and bolted for some offences he had committed; does not know whether Walsh was a Protestant or Catholic. (This examination was stopped, it being irrelevant.)

Has been prevented often from going to Mass of a Sunday by Mr. Keppel; that officer has prevented him often for disobliging him; (he, Keppel) has prevented him from going to Mass, if (he witness) did not clean his, Keppel's, shoes; witness thinks the governor would not allow such a thing, but he or any one so situated would be afraid to tell him so; thinks a great deal may be done here without the governor's knowledge; last Christmas, Mr. O'Donovan did not attend the prisoners as regularly as they wished, and the prisoners were angry at his neglect, but the prisoners afterwards heard that he was prevented; (the witness was told that Mr. O'Donovan himself would explain that if he had cause of complaint); is sure he suffered many grievances in the prison, although he cannot now remember them; remembers seeing the prisoners sent out of the Chapel without being allowed to remain for Mass; it happened twice, and when Mr. O'Donovan came, the prisoners would not be allowed to come back; had a conversation within these ten days with Mr. Algeo of this place, and only spoke two or three words; Algeo merely mentioned this Investigation, and said that he supposed witness would be wanted; does not think he told Algeo that he did not sign the Petition; did tell Algeo that he went to Church since he left this, he only went once or twice, went more frequently to Mass, because his wife is a Catholic; did not tell Algeo that he (witness) met Mr. O'Donovan in the street, and asked that gentleman "how dare he sign his (witness's) name to the Petition?" Has not met Mr. O'Donovan since the investigation commenced, he is sure, if he did, Mr. O'Donovan would not speak to him; his wife was here under the name of Loghlin, and when she got out, and he got out

he married; knew her before he came into this Institution. (Witness was ordered to withdraw for a while, and after some conversation was ordered in.)

Cross-examined by Mr. Rowan—When Capper read the petition, there was no one present; is not sure that White was present, although he believes his name is signed to it. On recollection, says he was punished, and he thinks unlawfully, and severely too; it was for claiming money which he lost in this Institution. and which he claimed about two or three years, this month since; was in confinement in his cell (but got his food as usual) from 24th June, to 24th July; on his oath did not remember on his direct examination, that he was ever punished, or he would have told it. When this affair happened last year in the kitchen about the women, M'Cormack, Hendrick, Callaghan, and he believes, Peter Capper, were in the kitchen, and they were Catholics; was not allowed an hour's exercise for the whole month when he was confined; M'Cloy was his keeper then; agreed entirely in the allegations contained in the Memorial; believes most of the Memorialists have left town; has heard the persons say, whose names are to the Memorial, that they would lose the last penny they had, to have revenge on the governor for the persecution they had suffered in the prison on account of their Religion.

Adjourned until eleven o'clock, next day.

Ninth Day—July 19.

On the sitting of the Court, the Rev. Mr. HIGGIN presented the adjoining Lists, certified by himself to be accurate.

Mr. ROWAN again addressed the Court on the protraction of the Inquiry, and expressed his great regret at the delay still likely to occur. He expressed a wish for an understanding that the prosecution should be ended before the Assizes, and that he should then have time to prepare his defence.

Rev. Mr. O'DONOVAN said, that he, for the Complainants, could not agree to any such thing; he wished to come at the bottom of a system of Proselytism that was going on in this prison; he should examine a great number of witnesses (prisoners); and therefore would not bind himself to any proposal such as Mr. Rowan had made.

Mr. TOWNSEND said, that he really did not see how the examination of the witnesses, to any number they might be offered, could be prevented, unless there was an order to that effect from the Government. The Learned Commissioner read the Memorial, and as he recapitulated the allegation made by the Memorialists, begged that a regard would be had to supporting them by evidence. It would be well that those points which were already sufficiently proved, would not be again reverted to. The facts already proved could not acquire any additional credibility by the production of fresh witnesses.

Rev. Mr. O'DONOVAN said, that as there was an expressed doubt of the truth of the evidence of the witnesses, on the plea of their being convicts, he thought it very advisable to produce numbers, in order to induce greater credence. It was very natural to suppose that there was a greater moral possibility of a few deposing to a false statement, than, that a great number would unite to affirm a falsehood.

Mr. TOWNSEND said, in reply to the objection on account of delay, that he really could not see any other mode of preventing it but admitting Counsel or Agent to have access to the prison, and to examine the witnesses who were to be examined. He (Mr. Townsend) could not say what the discipline of the prison required, or whether such an access would interfere with that discipline. If, however, Agents for what he might call the prosecution were not permitted to examine their witnesses, and that these witnesses came before the Court, who had no knowledge whatsoever of what these witnesses could say—he (Mr. Townsend) could not really object to any question which appeared to be what he might call interrogatories *fishing* for truth.

Mr. John M'Cloy examined.

Was an officer of this Institution; was appointed on the 23d Nov. 1823; cannot say the exact day he was dismissed, the Orderly Book will show it; was dismissed some time this year. Mr. Rowan was the governor when witness was appointed; was very

	Religion immediately on coming, if known.	Religion declared after Probation.	Religion changed.	OBSERVATIONS.
Brenan,		P.		
Burke,		P.	P.	
Connell,	C.	P.		
Connell,	P.	P.		
Connell,		P.		
Crumm,		P.		
Deban,		P.		
Donnel,		P.		
Doyle,		P.		
Doorle,		P.		
Dawson,	C.	P.	P.	
Dowlin,	P.	P.		
Fitzpat,	C.	P.	P.	
Fitzger,	C.	P.	P.	
Gould,		P.		
Jones,		P.		
Kearns,		P.		
M'Mah,		P.		
Moron,		P.	P.	
Meehan,	P.	P.		
Organ,		P.		
Roche,		P.		
Reilly,		P.		
Ryan,	P.	P.		
Ryan,	P.	P.		
Smyth,	P.	P.	P.	
Smith,		P.		
Salmon,	C.	P.		
Wisdal,	P.	P.		
			P. C. P.	
now pr	C.	P.	P.	
Ri	P.	P.		
	P.	P.		
LIST	C.	P.	P.	
REI		P.	P.	
		P.	P.	
		P.	P.	
		P.	P.	
Ander		P.	P.	
Aylwa		P.		
Ahern,		P.		
Atkins		P.		
Bulbri		P.		
Barry,		P.		
Barry,		P.		
Brazil		P.		
Byrne,		P.		
Boyle,		P.		
Burke,		P.		
Brown		P.		
Callag		P.		
Costel		P.	C.P.	
Carroll		P.		
Connor	P.	P.		
Carroll	C.	P.	P.	
Cassidy		P.		
Cronan		P.		
Crowle		P.	C.P.	
Clarke,		P.		
Conlan		P.		
Carr, P		P.		
Connell		P.		
Cullen,		P.		
Carroll		P.		
Courtn		P.		
Connor	P.	P.		
Connor		P.	P.	
Donnel		P.	P.	
Dowlin		P.		
Drinan,		P.	P.	
Dunne,		P.		
Daly, P		P.		
Donnell		P.	C.P.	
Darcy,		P.		
Drugh,		P.		
Donohu	P.	P.		
Dowlan	P.	P.		
English	P.	P.		
Ewing,		P.	P.	
Eagar,		P.	C.P.	
Fury, Jo		P.		
Ferguso		P.		
Fraser,		P.		

Hence it appears there are,
1st. } Protestant, 18, who declared themselves so, immediately on coming into Penitentiary.
} Catholics, 16, do. do. but have subsequently become Protestants.
2d. } Protestants, 24, who declared themselves such, after the weekly Probation.
} Catholics, 11, do. do. but have subsequently become Protestants.
34. Change after declaration and weekly probation, but finally Protestants. 34.

Flinn, Mat of my knowledge, the above is a correct list of Prisoners now
Fitzpatrigion in the Richmond General Penitentiary—July 18, 1836.
Fitzgera
W. HIGGIN, Resident Chaplain.

cruelly used with regard to his dismissal, but no matter for that; knew a prisoner under his control of the name of Bulbridge; recollects him having been removed to a solitary ward, but Bulbridge was not then in witness's ward charge, witness was then in care of the hospital; heard he was riotous in his ward; heard there was a shot fired from a pistol by James Algeo, that year must have been 1825, in that ward where Bulbridge was; there is no doubt if there were a ball in the pistol it would have entered the cell; has no reason to suppose there was a ball in it; never saw a mark such as a ball would make; never examined for one; if Algeo intended to kill the lad, the door was sufficiently open to enable him to do so; the impression on his mind was that it was not his intention to kill him; thinks the shot was fired in consequence of Bulbridge being riotous, and refusing to admit the officer, at whom he threw stones from his cell; does not know where he got the stones. When Bulbridge was in charge of witness, on coming to the prison, he was very well behaved. Bulbridge was using very violent language to the officers at the time Algeo fired the shot into his cell; witness was the person who afterwards removed Bulbridge; witness did not make any remark as he recollects on the subject; Algeo wanted to get into Bulbridge's cell, for the purpose of putting a strait waiscoat on him, which was afterwards put on him; accounts for that, thus—often, if a prisoner be put into confinement for a slight offence, he may become riotous and desperate, and then he is put into a strait waiscoat; cannot recollect any circumstance to make him think the commencement of this business proceeded from religious persecution of the prisoner; Bulbridge he believed was then a Protestant—(by the list handed in by Mr. Higgin, it appeared that Bulbridge declared himself a Protestant after his probation, and has continued so, but was originally a Roman Catholic)—never observed while he was here, any difference between the treatment of Protestants and Roman Catholics; has no reason to think, that a man was ever punished or treated with cruelty for the purpose of inducing him to change his Religion; has reason to think that prisoners may have advised others to go to Church, and thinks that some of the warders may have done so; Bulbridge, or John Gildea, (a warder), once spoke to witness on the subject of the former going to Church, and of his wish to do so, this was immediately after coming in; witness himself being a Protestant, certainly recommended him to do so; would wish every man to go to Church, but would use no severity; Bulbridge's mother was a Protestant, as he told witness, but Bulbridge did not tell witness what was his religion, but witness inferred from his manner that he had been a Roman Catholic. To witness's knowledge, Bulbridge on coming into this prison, was never called on to declare what his Religion was; has heard that Tom Flanagan has interfered with the prisoners; has never known any punishments used to make prisoners change; has no reason to think that Mr. Rowan treated a man more leniently for being

a Protestant; never heard it said to the prisoners on coming in, that there was no Catholic Chaplain in the prison; thinks he has been ill treated by Mr. Rowan, but however, feels no enmity towards him; there was no ill treatment used towards prisoners, when they were undergoing the probation; they got Protestant diet, they got meat or broth on Friday, for that time.

Cross-examined by Mr. O'Donovan.—There were religious tracts circulated in the prison; they might have been circulated by Mr. Higgin, but were intended, he believed, solely for the use of the Protestants.

Mr. HIGGIN explained, that the only tracts he ever circulated, and these were intended solely for his own flock, were a form of Morning Prayer, and a treatise on the Sacrament.

Witness, (in continuation)—said, he was sure that Mr. Higgin would do nothing unworthy of a gentleman, that he was admired and beloved by all classes in the prison. (To this compliment Mr. O'Donovan assented, and bore testimony to Mr. Higgin's correct conduct.)

Examination resumed.—Has not known tracts against the Catholic Religion to be circulated; witness has not circulated them, and if ever he had brought any books of the kind into the prison, and he did not recollect that he did, he did so for his own reading, and did not leave them in the way of the prisoners; thinks that he had a book on controversy, which might have been seen by Gildea, (his wardsman) who was a Protestant, but he is sure the Protestants could not have seen it. The book in question was written by Gideon Ouseley, and is entitled, "A defence of the old Religion," it is an attack on the Catholic Religion; has observed what great numbers of Catholics changed their Religion when they were some time in the building; witness attributes the conversion of a great many of them to sinister motives, they, probably thinking, that by being Protestants, they would sooner get out; cannot say how Mr. Rowan may have felt, or what motives he may have had for recommending the pardon of prisoners, but witness never saw any thing that he could say was a favouring of Protestants in that; has heard Wood the schoolmaster, frequently and repeatedly explain the Bible to Catholics; never has heard any of the Catholics object to that; does not think they had any reasonable foundation for withholding their complaint of such a practice; at the same time they would be very cautious in what they would do in witness's class, for that was the first class, and those persons were in expectation of getting their liberty; cannot call to mind that the explanation involved any controversial differences between the Protestant and the Catholic Religions; witness will not swear, but he has an impression on his mind, that Flanagan, the officer who had charge of a class where the prisoners were put in probation, told witness on a particular occasion, that he had spoken to a prisoner to induce him to change his Religion; has not heard that Flanagan spoke this way; but many

persons went to Church from his division. In reference to the shot fired by Algeo into Bulbridge's cell, witness says that the pistol was re-loaded when it was fired, but cannot say that there was a ball put in. It does not appear that this circumstance had any relation to the religious causes; thinks on Mr. Algeo re-loading the pistol, he (witness) said to him not to put a ball in; Algeo did not fire the second time. Has seen very severe punishments inflicted upon prisoners who were Roman Catholics, they were treated with severity; (witness used the word *cruelty*, but on recommendation, altered it to *severity*.)

Mr. ROWAN objected to this examination—it was the introduction of this irrelevant matter that made the investigation so tedious hitherto.

Witness objected to the lightness of the strait waistcoat put on Bulbridge; has seen a strait waistcoat on John Lynch also; believes Lynch had the waistcoat on him for many days—a man in that state, could not of himself ease nature—he would require the assistance of another; has seen several persons gagged with small jack chains in their mouths; has seen a helmet on them; witness described it- (a detailed account will be found in the appendix.)

Mr. ROWAN objected to the agitation of this matter, it being already set at rest by the investigation of the Lord Lieutenant.

A long conversation here occurred. in which Major Woodward adverted to the investigation alluded to by Mr. Rowan on the snbject of the helmet. The Government merely inquired into the circumstances of a gag being used even in the extreme circumstances under which the gag, in the case whieh caused the Investigation was used. The decision of the Government was given on it without ever inquiring into it, the form of this gag, which he (Major Woodward) never saw.

Mr. ROWAN—"Oh! it is a thing quite common in the army, a drumstick across the mouth is constantly used as a punishment."

Major PALMER—"I never saw it."

Examination resumed.—It was during the governorship of Mr. Rowan, that he (witness) saw this helmet, and does not think he was dismissed for not making converts: was dismissed for not having a lamp in his room, and he thinks it was unjust; remembers a person named Nowlan having died in the hospital; does not think Nowlan died for want of care; every thing that the medical officers ordered for him was given.

Mr. ROWAN—Oh! there was a Coroner's Inquest on him.

Mr. TOWNSEND—Of course there was a Coroner's Inquest on every person dying in the prison—the law requires it, and the person who buries a prisoner who dies in prison without a Coroners Inquest, is indictable.

Mr. ROWAN said, in point of fact, there was always a Coroner's Inquest on the prisoners who died.

Mr. TOWNSEND—I hope it is not alone "in point of fact" "but in point of law," for the law requires it.

Witness—Nowlan died of fever; was for some days in the cell, before he was removed to the hospital; believes Mr. Todd, and Mr. Neary saw him in his cell; when Nowlan was given to witness, who was in charge of the hospital, he was very weak; thinks when he (Nowlan) was given in charge to witness, he had a mark of a fall, as if a cut on his forehead; when Nowlan first entered the prison, he was a very fine able young man; cannot recollect how long he was in the house before he died.

Rev. Mr. O'DONOVAN—"What was your opinion of me while you were in the prison."

Answer—"Always of the best character, Sir."

Mr. TOWNSEND here interfered, and said; that there was no occasion whatsoever, of Mr. O'Donovan entering into a defence of his character, which had never been assailed.

Mr. O'DONOVAN said, that he wished to make the inquiry, as he had heard an attempt would be made to assaile his character. "I have heard in the street, (said the Reverend Gentleman,) a rumour, that my own reputation would be arraigned."

Mr. TOWNSEND—"Under these circumstances, Mr. O'Donovan, you are at liberty to ask such questions as you may think fit."

Mr. O'DONOVAN—What is your opinion of my moral character, as a clergyman, while I was under your observation?

Answer—I have never heard anything to affect your moral character.

Mr. ROWAN said, he had nothing to ask; he would only say, that he was glad to see so respectable a witness on that side of the question, and was happy to find he (M'Cloy) was more comfortable than when he was in the prison.

Witness bowed, and withdrew.

Anne Lynch produced.

Witness evinced some scruples as to the propriety of taking an oath, without consulting the clergyman, Mr. O'Donovan, to whom she referred. Mr. O'Donovan told her she was bound to take an oath for the sake of justice, and, that provided she told truth, there was no crime in it. Witness was accordingly sworn.

Was a prisoner in the house; came here the 11th July, 1821 and was discharged before Christmas; three months before the person to whom she is now married, was discharged; is a Roman Catholic, and professed herself a Catholic whilst she was here; whilst she was here no one induced her to change her Religion; knows of a difference of treatment between the Protestants and Catholics; knew persons who had been Protestants, and wished to return to their Religion, and who were prevented from seeing the Priest, and were locked up.

Mary Lynch, Biddy Meehan, and Mary Frazer, were of this number; when witness first knew these persons, they went to Church; knows, by hearsay, of their having applied through the

warders to see Mr. O'Donovan, but has no direct knowledge of the fact; has known persons to be punished for, as they declared themselves, asking to go to Chapel; has no reason to know this, unless from their own declaration; they were punished by confinement, in separate wards, and fed on bread and water, which she saw going to them; witness was in the same division with them; there was a warder here, for a month witness was under her she was then Miss Conolly, she is now Mrs. Keppel, and has left this; she has spoken to the prisoners about Religion; witness has heard her in the school, of which she (Miss Conolly) was the mistress, say to all the prisoners, that they were going wrong, and state that she wished them togo to Church; witness mentioned this to the Rev. Mr. O'Donovan.

To a question from the Court—Mr. O'Donovan said, that he recollected the witness telling him of the fact, but that he did not remember he told it to any person.

On the occasion alluded to, Miss Conolly went into witness's ward, and finding there some Holy Water in a bottle, she asked witness did she believe in that; witness said she was born in such belief, and did believe in it; Miss Conolly said, finding that she was sorry to see her (witness) so foolish; Miss Conolly asked witness, why were they the (Catholics) bowing to false images in the Chapel.

Has heard the head ward maid, Mary Kinsela, going about to the prisoners, when they came newly to the house, and inducing them to go to Church. This woman used generally tell them, that if they would go to Church, they would get out in a year; she (Kinsela) spoke to Betty Cronin in particular, to this effect; Kinsela used to be sent up with provisions to the division classes.

Mary Lane was a prisoner, and was going to Church at the time, and was brought up very ill to the hospital; she was very bad, and nearly at death; she called for Mr. O'Donovan, several times, for many days; she raved, and they put her in a strait waistcoat; Mr. O'Donovan at length was let go to her, when she was not recovering, she did however, eventually recover. The doctor (Orpen) attended, he and Mr. Neary, the apothecary; Witness was ward woman in the hospital at the time, and attended the woman; has heard no one but the warder already named, speak on the subject of Religion; on that occasion, the prisoners told the warder, that they knew of a warder in another prison to be discharged, for introducing such subjects, and this had the desired effect of silencing her afterwards: she did not again mention it; has known female prisoners who were transported out of this; knew Mary Connor, Ellen Dunn, Jane Armstrong, Mary Ryan, Mary Anne Williamson; heard Ellen Dunn and Mary Connor say, that they were transported on account of their Religion; heard Ellen Dunn say so, she did not say what reason,

she had to think so; witness was a Roman Catholic, and she thinks the recommendation for her liberation from prison came from Mr. Rowan, cannot tell why Catholics were sent to Botany Bay for their Religion, and she, although a Catholic, was liberated from prison; witness never broke a rule in the prison, and she supposes that may have served her; witness knew the piper's wife; she (the piper's wife) often did worse, and she was not sent to Botany Bay; Ellen Dunn, witness heard, was only giving impudence to the governor, about some tobacco; I heard that said by Ellen Dunn, herself; cannot say that the Governor sent Ellen Dunne to Botany Bay; the piper's wife broke windows, and she was not sent away; does not know whether breaking windows, or giving impertinence to the governor, was the greater offence. Anne Howard, a Protestant, was sent to Botany Bay, and witness cannot say exactly whether it was for breaking windows or not; she certainly, however, broke so many windows, that they could not be counted; witness was not at confession last Christmas; when witness came first, no one would be heard in confession unless in the Chapel. The prisoners were always allowed to go to the Chapel in Mr. Hollingsworth's time; they were not allowed to go to confession last Christmas.

Mr. O'Donovan explained, that he did not wish to hear prisoners, particularly female prisoners, in their cells; there was a rule in the Catholic Church against hearing confession unless in case of sickness, out of the Chapel.

Resumed—Was never punished in this house, although she is a Catholic; dares say she would be punished if she deserved it; was nearly two years in the hospital, as a cleaner; she had a better situation in the laundry, and she was sent to the hospital in consequence of a complaint in her jaw, which did not leave her all the time she was there.

By Mr. O'Donovan—The matron, when witness left this, did all she could to procure a situation for witness, and gave her a couple of letters for that purpose; heard of Mary Frazer's punishment for thirteen weeks; heard her crying out in the Chapel on one occasion, and heard her demand that she should be sent to Botany Bay; does not remember the causes she assigned for wishing to be sent there.

Witness withdrew.

Mr. Dolan, the Law Agent, came to enquire whether the Commissioners would receive evidence of cruelties that were not directly proved to have a connexion with Proselytism?

Mr. Townsend said not, if it were avowed that it had no connexion.

Mr. Dolan begged that decision to be entered on the minutes, and said his object was this, there might have been acts of cruelty committed by the governor, which he might assign to different motives. Now, it would be difficult in all cases to prove

a connection between the cruelty and the cause. His (Mr. Dolan's) instructions detailed facts of cruelty, which did not profess to be connected with Religion—for instance, the use of the helmet and the keys, of all of which he would send in models. If the Court did dot think fit to receive evidence of this kind, he (Mr. Dolan,) would apply to Government for in structions.

Mr. TOWNSEND said, the more satisfactory way would be, if there were additional matter, to make an application to the Castle, for a particular investigation. Mr. Nolan after assenting to this, withdrew, but was immediately recalled by Mr. Townsend, who said, that on a conference with his brethren with him, it was thought advisible to receive evidence of cruelty, although not connected with proselytism—Mr. Dolan withdrew.

Mr. ROWAN said, that the question now raised was debated at first, and set at rest by the decision of the Court that they had no discretion. He did not think that extraneous matter should be gone into; the persons prosecuting here, feeling that the prosecution had totally failed, although they had bolstered it up by perjury, said, "we can do nothing in this business, but we will take new grounds." (He, Mr. Rowan,) was acting under the advice of Counsel, and he would not without a consultation with them, agree or disagree on the subject of an extension of power to the Court.

Mr. TOWNSEND said, Mr. Rowan had full time to consult his Counsel—they would wait for him, or if he thought the Commission had not power to try the question to the full extent, he (Mr. Townsend) would apply for it.

Mr. WOODWARD expressed his decided opinion, that it would be proper and expedient to go into the general question; he was opposed to any thing like an entry on the minutes, that they would not receive evidence of general cruelty. If these proceedings went abroad, granting the charge of cruelty for Proselytism to be unproved, still the Public might say, "to be sure they have not proved acts of cruelty on account of Religion; but the complainants could have produced evidence sufficiently satisfactory to prove acts of cruelty—but it was refused." He (Major Woodward) thought the general investigation was called for, for the sake of the character of the Penitentiary and the Government.

Major PALMER expressed the same opinion, and stated, that he and his brother Inspector must have a feeling of jealousy on the business, and they would wish that it should be fully investigated, in order to their own vindication.

Mr. TOWNSEND said, he would, on the rising of the Court, go directly to the Castle, and would see Mr. Goulburn; he would tell him what had occurred, and if Mr. Goulburn asked his opinion, he would give it to him, and would advise him to direct a general investigation. He would also recommend that

this Investigation should drop—that the proceedings should be commenced after the Cork Assizes, with the assistance of Counsel if the parties pleased.

Mr. ROWAN expressed his full readiness to meet any charge when properly made against him, and again adverted to the hardships of the proceedings; the specific charges made, had failed, and now there was to be a fresh attempt made against his character.

Mr. TOWNSEND said, that its failure was all a matter of opinion Mr. Rowan might think it a failure, but the other party might think the charges were proved very satisfactorily. It was for the Court or the Government to decide upon that.—After a long dialogue on this subject, in which nothing new was elicited, the Court Adjourned until to-morrow, at Eleven o'Clock.

The Court adjourned with the understanding, that at all events the proceedings for to-morrow should undergo no change.—This was for the purpose of enabling the parties to prepare themselves for the new line of proceeding.

Tenth Day—July 20.

Mr. Townsend, on the sitting of the Court, said—when I left this yesterday, I proceeded directly to the Castle, to communicate with Government, and to inquire on the subject of receiving any additional evidence offered; I am directed to receive any evidence offered, but to report particularly on the specific matter that induced the Investigation, and then if fresh grounds be shown, that is, if evidence should be given to us that we think important, to add it as an appendix, I think it would be well not to examine any evidence, except on the subject of the present inquiry, until after the Cork assizes—and then, if both parties agree, counsel shall be admitted—that arrangement must be by consent.

Bridget Nolan sworn and examined.

Was a prisoner in this house; does not remember when she came here; was discharged 12th January, 1826, came in, she believes, June 1821; is an unmarried woman, was tried in Green-street; she and three others were tried for a robbery of £12; has been always a Roman Catholic from the day she was born until now; no one here in the prison ever said plumply to her, that she ought to become a Protestant, but Miss Freeman (the matron) was coming round her, and was endeavouring to make her listen to her prayers, and said that she did not care for Mr. O'Donovan; Miss Freeman said, that witness might go out from the prayers, but she should stop to hear the Bible read; Mary M'Laughlin, a Protestant, Catherine Langan, a Protestant, (who had changed from being Catholics) Mary Doyle, a Catholic, Bridget Brenan, a Catholic, all heard this at the same time that Miss Freeman told her she should hear the Bible; she told witness she was not a christian, Miss Freeman insisted on Mary Doyle and Bridget Brenan, also listening to the Bible being read, but they all walked out when prayers begun; they all made an objcetion to hearing the Bible read, as Mr. O'Donovan did not permit it; Miss Freeman said, in the presence of the women, that witness was no Christian, and witness then burst out crying; witness told this to Mr. O'Donovan; Miss Freeman said she was no Christian because she would not listen to the prayers. The governor had one day to visit the division in which witness was, in consequence of some argument in which witness (who was often obliged to argue when she was tormented by the Protestants) was concerned. The governor came and stood near the chimney, and put his hand to his heart and said he wished from his heart, the prisoners were all Protestants, and that he loved a Protestant; Miss Freeman then observed that she would not think it a sin to bring every one she could to be a Protestant.

When witness was under Miss Taggart, she often gave hints about her Religion, saying, that she was not doing right, she (Taggart) has said that the Blessed Virgin was no more than any other woman.

When witness was in the first class, something occurred between the Catholics and Protestants ; it was an argument ; it was witness who sent for the governor and reported what had passed to him; witness was the only Catholic in the division, the rest were all Protestants ; the argument was principally between witness and Sibby Mulally ; there were present at the argument, Catherine O'Hara, Rebecca Smyth, and Margaret Carroll ; these three were Protestants—what produced this argument was this—Sibby Mullally was cursing the governor ; witness stopped her, and the conversation then turned to Religion ; when the governor came in witness began to tell him her story ; when she had told a little, the governor said, " stop, now, Biddy Nolan, I won't hear, I won't believe you." The governor then heard the story of the others, who spoke—all but Carroll remained silent ; as the governor was going out, witness asked him to let her see Mr. O'Donovan, to clear herself, and he turned on his heel and said to her, " if you have done a sin, go into your ward, confess to God, and not to sinful man like Mr. O'Donovan." Sibby Mullally denied cursing the governor ; on her denying that, Catherine O'Hara and Rebecca Smyth said she was right, they bore false witness against witness ; witness did not tell the governor anything at all about the religious part of the quarrel, for he would not listen to it ; witness went into her ward, and was punished by being kept on bread and water for 24 hours ; this was about a year ago ; it was before the governor went to England ; it was in Summer.

In some time after this, the governor was going to England, witness was always anxious to get something to earn to have by her when she would get her discharge ; the governor placed witness at her own desire, before he went away, in the laundry ; with hard work and hard wringing in the laundry witness got " a gathering" in her hand, which the surgeon lanced twice ; witness worked on as well as she could, and did all the work about the laundry but washing ; witness was not a cleaner then ; when the books came to be settled, witness gave her book like any other woman to Miss Freeman to be paid ; Mrs. Cooney, the warder of the laundry, was then present ; Miss Freeman, on being handed the book by witness, said, that witness was to get no money, that what she required was to be given to Mary Kinsley, (a Protestant) ; witness told Miss Freeman at the time that she was not doing justice to witness ; Miss Freeman told her not to say that again, or that she would dismiss her from the laundry and send her to the work-room ; witness said she might as well be in the work-room as working in the laundry for nothing ; witness required very much to be allowed to go to the hospital while her hand was bad, and she would not be allowed ; cannot say that the doctor recommended her to be sent to the hospital ; Mrs. Cooney, the warder of the laundry, was present when Miss Freeman said to witness that she should get no money, and Mrs. Cooney (a Protestant) said, witness was deserving of her wages, that if she (witness) did not wash she was doing other things

which would require a woman who should be paid ; Mary Kinsley was a Protestant and was a Protestant when she came ; witness after that continued in the laundry ; those who are in the laundry get as much as they can earn ; witness after that became a cleaner of the laundry, (in which employment they can only get 5d. a week) ; it was the duty of witness, when in that capacity, to attend on Mrs. Cooney ; she went up to lay the tray for Mrs. Cooney's breakfast ; witness had no breakfast-knife ready for her breakfast, she had not, from all her labour, time to clean one ; witness laid a dinner-knife ; Mrs. Cooney came up to breakfast, and on finding a dinner-knife, took it up and flung it at witness, who was sweeping the corridor, saying, " that is no knife for me ;" witness drew back and escaped the knife by this motion, otherwise she would have certainly been hit in the feet by it ; witness took up the knife, and by that time Mrs. Cooney, who is a very passionate woman, had become cool, and she received the knife from witness, saying, " it will do ;" has no reason to think that this had any connexion with Religion ; was pardoned soon after this ; does not know whether this was done by Miss Freeman's good report of her to the governor, but supposes that if there were any thing against her she would have been kept ; Miss Freeman put witness out of the laundry after the dispute, into the work-room ; witness was sick a couple of days before she was removed from the laundry ; has seen others lying sick for a fortnight ; has known Ellen Comerford, Margaret M'Mahon, and Betty Delany, who were in the laundry, to be ill for a fortnight, and when they were able to go to their work in the laundry, were sent there again ; these persons were all Catholics ; witness was then sent up to the work-room, and lay two days ill there, during that period there were times when she got no breakfast and no dinner.

The first morning she got a little stirabout, stone cold, and nothing at all that night ; the second morning she got no breakfast, nor any thing at all, until night, when Catherine Langan, out of her own food, brought her a quarter of bread and a little hot milk ; the third morning witness got up, but did not get up until after breakfast, but she got her dinner ; during those days was attended by nobody ; Miss Taggart said Mrs. Cooney would attend her ; Mrs. Cooney said Miss Taggart would attend her ; neither of them would attend her or report her to be ill to the doctor ; on the fourth day witness was ill, and was on the fifth day ordered by the doctor an emetic ; witness was ordered a drink by the doctor, but what she got was a quart of cold buttermilk ; it was laid on the floor to her, and given reluctantly ; was ordered a paper of pills by the doctor, which by the neglect of Mrs. Cooney were not given to witness, and were afterwards burned in the fire for the purpose of making away with them ; Miss Taggart, during this time, was searching through the house for food without effect, for witness thinks this treatment was partly on account of her Religion ; thinks if a Protestant had been sick she would get the best of attendance ; has carried, herself, bowls of tea and toast to Biddy Richardson and Betty Whitaker,

who were both Protestants; does not know whether Miss Taggart sent these comforts at her own expense, but thinks she did; Mary M'Laughlin, who used to attend Miss Taggart, was treated in such a manner that she could not eat at the table with the prisoners; witness was once a temporary cleaner to the laundry; only a temporary cleaner, by which she could earn no more than 5d.; she could not be a regular cleaner, nor was there ever a Roman Catholic but one a cleaner in her time; Mary Lynch, who is here now, has told witness that she wanted to go back to the Catholic Church, from which she had changed after coming into the prison, and that the governor told her (Lynch) that he would never have the same heart for her again.

Another difference she has seen was in the work-room, when petticoats were making; has seen four given to be made to Rosey Dowling, while witness got but one; this has happened several times a week; a person could make half a dozen or more of them in a day; these petticoats were worn by prisoners; a penny was the payment for making a petticoat; has seen no other person but Rosey Dowling get four petticoats; others have got two and one to make; believes Rosey Dowling was then the only Protestant in the place. Witness has remonstrated about the petticoats, and asked why she did not get more as well as any other prisoner; and Miss Connolly (now Mrs. Keppel) who was the assistant matron, and saw the work given out; in reply to her, told her that she was very impertinent, and that she should go to her ward if she would say a word more.

On many occasions on having a difference with the Protestants witness has threatened to tell the governor; they told her she would not dare to complain; witness has often reported this to Miss Taggart, and also to Miss Connolly; has told the governor also but he told her he would not listen to her, and gave her no satisfaction.

Was kept from Chapel one Sunday by Miss Taggart who was too late dressing herself, and when she came, she told witness it was too late to go; there was so much impatience manifested to make the Protestants attend regularly in Church, that their heels would be almost whipped off shutting the doors after them; on one day that witness complained of Miss Taggart, the governor said he would strike her (witness) out of the Lord Lieutenant's books, if there was ever a complaint made by her again. The governor same day said he did dot care how soon, she (witness) was out of the house, as she was making proselytes.

It used to be the whole discourse of Miss Taggart (the warder) at school, to witness, that her (witness's) Religion was not right, and she used also to be talking of the Blessed Virgin disrespectfully.

Witness was very anxious to learn her catechism, brought a catechism into Miss Taggart, and asked her would she be taught, and Miss Taggart said she would not; witness could not read the

catechism, it is too *cramp* for her, and she can only spell; a girl of the name of Bridget Brenan, a Catholic, who knows how to read well, was sitting near her, and witness asked Miss Taggart, would she allow Bridget Brenan to teach her, and Miss Taggart said she would not, as there was no catechism but the one to be taught there, and that was the Protestant; has been often told that she was worshipping sticks and stones; Miss Connolly (now Mrs. Keppel) has often told witness so when she was at work in her own room; Mrs. Arrendale who was doing Miss Taggart's duty when Miss Taggart was ill, once refused to hold a Douay Testament, and to hear witness read out of another, which she (witness) had in her hand; wished Mrs. Arrendale to look at another copy, while she (witness) was reading, in order to try was witness going right; Mrs. Arrendale refused, and said she would read out of no Testament but her own; Rosy Dowling (a Protestant) then heard witness read.

The governor on one occasion told witness, it was a mark of favor from Government that they had a Priest here at all, he made that remark the same day he told witness he would cut her off the Lord Lieutenant's books.

Witness was stopped from getting holy water; Mrs. Duigan (now Mrs. Molloy) took her Bible from witness; Mrs. Farrell used to bring them holy water from the Chapel; Mrs. Duigan told her she was not allowed any holy water; has told many of these things to Mr. O'Donovan; has told some of them to the governor, but has not told him of the holy water affair; witness herself has never reported for Mr. O'Donovan without seeing him, but she has heard that others did.

Witness ordered to withdraw.

Mr. ROWAN—Miss Freeman or Miss Taggart, who were present, did not ask any questions of this witness.

Thomas Kearney examined.

Is a prisoner in the Penitentiary; is not long here; is here about two months; cannot tell when he was tried; he was in Kilmainham for about three months after his trial; was tried at Green-street; is a Catholic; no one but one boy, a fellow prisoner (a Protestant has endeavoured to make witness change his Religion; his name witness does not know, he is a cook; he told witness it was better for him to turn and go to Church; this was the first week witness was here; he (the boy) was a sweeper in the range where witness was, and brought some books; forgets the name of the books, but they were some Protestant and some Catholic books; did not read them because he cannot read, the boy read some of each kind for him; can't tell the reason of his reading both kinds, the name of the boy is, witness thinks, Stephen Hendrick. he told witness it was better for him to turn, he did not tell witness any reason when he advised him to change his Religion; has not been

influenced since he came here, to change his Religion; came into this house on a Monday, and did not go to Chapel on the next Sunday, although he asked his officer to let him go to Mass, but went on the Sunday after that, that is in a fortnight; saw no Priest or Minister during the fortnight; his officer Mr. Coombs, came to him on Friday in the second week, to ask him of what Religion would he report himself? witness said the Catholic; the officer came to him the second time and asked him, and witness persisted in his decision to be a Catholic; he went to Mass on Sunday, then saw Mr. O'Donovan for the first time; witness was told by the boy, that there were a Minister and a Priest here, but that there were prayers here in the Chapel, but *once* a week, and that prayers were every day read in the Church; got soup and potatoes the first Friday he came, for dinner; does not get soup now on Friday; objected on that Friday to taking soup, but the boy said that if he did not take that, he would get nothing else; did not get soup the second Friday.

Witness ordered to withdraw, being first cautioned on his oath, not to relate to any person, what was either said or done in the room in his presence, until he got leave.

Mr. John Lamb, examined.

Is now the keeper of the hulk Essex; knows Patrick Carey, a convict, (the first witness examined on this investigation.)

Rev. Mr. O'DONOVAN was here going to inquire of the witness, his opinion as to the character of Carey, but was prevented by the Court, who informed Mr. O'Donovan, that he could not produce evidence as to the character of his own witness, until his character was first assailed; it was besides idle to ask the character of a man who was a convict, and would have been an incompetent witness in a Court of Justice.

The witness deposed that Carey conducted himself on board the the hulk very well since he went there, and that he is now a Catholic in regular attendance on the Catholic Chaplain.

Witness withdrew.

Patrick Doorley (a cook in the prison) sworn and examined.

Is a prisoner in the house, came here the 2d June, 1825; came from the hulk at the Cove of Cork; was tried at Philipstown, King's County; was for two years under Mr. Hollingsworth in Cork; since witness came here, has been a Roman Catholic; has been always so, and his father before him. One man, M'Cloy, (not the officer, but his brother,) who is not now in this house, endeavoured to make him change his Religion; was not more than twelve weeks here, and about eight days under the care of M'Cloy; when he asked witness why he did not think better of it, to go to Church than to Mass, witness said he was reared a Catholic, and wished to continue in that Religion; M'Cloy then asked witness,

what use there was in his (witness's) going to Mass, when he did not understand the latin in which the Priest said Mass; witness said although he did not understand the latin, his belief was in the Mass, and that in that he would continue; M'Cloy said nothing more on the subject, nor did any officer in the building ever speak to him on the same subject; a prisoner asked him when he came into the prison, where he would go, and witness said "you know where I'll go, sure you were in the hulk with me before I came here, you know where I went then?" Cannot say that he has been offended directly on account of his Religion, by any one in the building; on one day, a fellow cook on a Friday, washed greasy plates in the water in which witness's dinner was to be boiled; witness asked him why he did so, and said it was not fit for him to do so; this person replied, that he would do it and no thanks to him (witness); remembers no other circumstance; the man who did this is named Fury, he is a Protestant; Fury is a passionate man; did not complain of him on account of that; believes Fury complained of him, for witness told Fury, if he would again wash his greasy plates in the water, he would strike him; witness was not punished for his complaint; never was punished at all, nor missed a meal of victuals; the Catholics got milk on Friday, and the Protestants meat for their dinner; witness asked the keeper the first Sunday after he came in, if he would let him go to Mass, but the keeper made him no answer; witness got milk for his dinner, the first Friday after he came in.

Mr. ROWAN here expressed a high opinion of this witness, and the COURT concurred in an expression of surpise, by what fatality a man of so much intelligence and apparent good conduct, could have come into this prison. He and one or two others that were before them, the Court remarked were remarkably acute and intelligent.

The witness withdrew.

Richard M'Cann examined.

Is a prisoner here since the 26th January, 1825; was a Roman Catholic when he came here, but since he came here has been a Protestant. Was asked of what Religion he was by one of the warders (Mr. Somerville) seven days after he came here; Somerville asked him what Religion was he of, or what he would be? witness said he was a Roman Catholic—Somerville said, it did not matter what he was, but what he would be; Somerville told him to go to Church, and if he did not like it he might go back again—Somerville said, at the same time, that he (witness) could not read latin, and that there was no use in his going to Mass, and by going to Church he would understand the service; Somerville said, the governor was a Protestant, and that he was a learned man, and consequently able to judge what was best, and that persons like him (witness) not being able to judge for themselves, ought to do as he (the governor) would wish; Somerville then asked him, would he go or not—at this time witness would not be allowed to go any where.

When the time of going either to Church or Chapel was drawing near, Somerville asked him in the ward, of what Religion his parents were—witness said his father was a Protestant, his mother a Roman Catholic; had no more conversation then. Witness then went to Church; the first place of worship witness went to was Church; witness does not recollect how many Sundays he was here before he went any where; did not go any where to Divine Worship the first Sunday after he came in; does not remember whether he went any where the next Sunday; went to Church in consequence of Mr. Somerville asking him. The first Sunday he came here he met Mr. Algeo in the corridor, and Mr. Algeo, in conversing with him, said, that he was a Protestant, and that he considered that Religion right, and that persons were sent there by Government to be instructed in the right way—witness said, every body thought his own way best. When Mr. Somerville opened the door above the corridor, Mr. Algeo told him to put witness to his ward; witness was here eight months before he saw his mother; he then saw her on St. John's Day (24th June, 1825). Shortly after seeing her, witness reported to go to Mass; nothing passed about religion between witness and his mother. When the report was made for for him to go back to Mass, witness was locked up for a fortnight after the day on which the report was made.

Mr. ROWAN here remarked, that this was the custom.

Examination resumed—Was not allowed to go to Mas for one week; and then, there being no Mass until the Sunday following, could go no where. During his probation the Rev. Mr. Higgin told witness that he could not understand the latin Mass; witness cannot say that it was his (witness's) obstinacy that made that gentleman angry or not; but he did get angry, and witness then went out of the room. There was another boy (Jas. Herbert) who reported along with witness to go to Mass; and when witness came out of the room Herbert went in, and what passed between them witness cannot tell, but Herbert did not go to Mass—Mr. Higgin then told witness he was done with him, and to go to his ward. Witness went no where next Sunday; and then seeing that the Rev. Mr. Higgin was angry with him, he went to Church; witness did not at first go to Church by his own consent; he knew nothing at all about the Church, but Somerville told him about the governor, and that it was his (the governor's) wish that the prisoners should all go to Church; and then witness agreed to go, but at the same time he resolved on being in his heart a Catholic, not thinking it would be any harm, under his cirumstances, to profess to be a Protestant, during the period of his confinement.

The witness was ordered to withdraw, after being cautioned not to mention to any person what had occurred here.

Court adjourned.

Eleventh Day—July 21.

The Rev. Mr. HIGGIN, at the commencement of the proceedings, submitted a proposition in writing to the Court, to the effect, that it was his duty in discharge of the pastoral functions of a Clergyman, to retain, by all arguments in his power, to use those persons who had become his flock, and that, consequently, certain language and observations must, in the effort, be made use of by the respective Clergymen; and as the repetition of these words must excite unpleasant feeling, it would be advisable to avoid, in the examination of the witnesses, a recapitulation or detail of the kind as much as possible.

The COURT concurred in the opinion, and thought it quite proper as a principle that a Clergyman should use all manner of fair argument to keep his converts with him.

Examination of Richard M'Cann resumed.—Was made go to Church between persuasion and coaxing; was prevented from seeing his mother for a long time, and after seeing her the officer reported that his conduct had been bad since he saw her; (Mr. Somerville was the officer); he and the governor then ordered that witness should not see his mother until there was a reformation in his conduct. The reason that the officer put that report in was, that witness had reported to the governor of the hardships of that officer towards him from the time that he (witness) had reported to go to Mass; the governor asked the officer why he did not report witness to him and that he would have punished him, and the officer said that there was nothing in him deserving of being reported, as he kept within the bounds of punishment; the governor then said to witness that he (governor) had heard that he had reported to go to Mass, and that the (witness) should not go till he'd think proper, but that he might go to Church if he liked; Mr. Somerville, Patrick Doorley, (the prisoner who was yesterday examined) was standing by listening; Algeo was there, but witness cannot tell was he near enough to hear the words; witness was then ordered to his ward and continued so. Somerville opened the ward door on the Sunday following, shut it again, saying, that it was a mistake of his to think witness was going to Church; Somerville also opened it on another day in the course of the week after that, and asked witness if he would go to Church, witness said that he would not; witness remained that week confined to his ward and the week following, until Saturday. The Rev. Mr. Higgin came in the course of the week, and said a great deal to witness, and got very angry, and spoke to him in abuse of his Religion; seeing that Mr. Higgin was so angry, and that the governor was so angry, and having it in his power to go to Church when he pleased, he (witness) told the schoolmaster, on Friday evening, that he would go to Church, and accordingly the cell door was opened on Saturday, and witness went to Church. Nothing passed on this subject then until the 4th of the present July. (The occurrence just detailed happened be-

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cartridge on the prisoners; witness reported for Major Palmer some time about last year; is not sure what time; it was after the governor came home that this conversation took place; (the governor came home in August.) Witness reported to Mr. Algeo last month (June) to see Major Palmer; witness was then in the solitary cell; Algeo told witness again that Major Palmer had no authority here; in a few days after the governor himself came into the solitary cell; the governor said to witness that he understood he (witness) had reported for Major Palmer, and that he wished to know what he wanted with him? the governor said that Major Palmer could do nothing but what he could do. Nothing further passed.

Mr. TOWNSEND—Have you any thing further to say?

Witness—No, Sir; I have now nothing more to say than this, if I get liberty of conscience now without any obstruction, I wish to go to Mass.

To a question by Major Palmer—Was last year, when he reported to go to Mass, 28 days in solitary confinement; 14 of the 28 on bread and water.

To a question from the Court—Between a solitary confinement, and confinement in the third class, there is this difference, in the third class the people are at work and employed; it is a sort of probationary class, and in solitary confinement, they are confined where they have no light nor communication with any body; on the occasion he was confined, it was for a very severe crime; he broke a loom which was in his ward because he would not be allowed to see his mother, who, it was suspected, had influenced him to report to go to Mass.

Mr. ROWAN here remarked, that he supposed the witness had, on the occasion alluded to, done £15 worth of damage; he also threw a stone which bounded off the wall and struck the master tailor on his face.

Examination resumed—Got a pound of bread a day, and as much water as he wished for, while he was confined; had no objection to the quality of bread that he got.

To a question by Mr. Townsend—Not having any communication with prisoners, cannot say that there are others here going to Church who would go to Mass if they were allowed, but he has never had an easy mind since he went to Church; told the governor the first time he reported to go to Mass that it was useless for him to go to Church here as he would not go when he got out again, that is, when he was liberated from prison.

To a question from the Rev. Mr. Higgin—On the last occasion, when Mr. Higgin came to witness, he (Mr. Higgin) said that he made no distinction between Protestants and Catholics, and that to whichever place, Church or Chapel, he (witness) would go, he (Mr. Higgin) would be his friend, for which declaration witness expressed his gratitude, as well as for the other marks of kindness shown to him by Mr. Higgin since he came to the prison.

Mr. ROWAN declined asking witness any questions.

Witness, on being ordered to withdraw, said, before he would go, he would wish to speak to Major Palmer; witness then implored of Major Palmer that he would use his influence with the Government to have him sent out of this to Botany Bay or any where else, he did not care where he was sent to, provided that he was sent out of this, particularly after what had now passed.

Major PALMER replied to prisoner, that he need be under no apprehension of ill treatment here, that the governor had declared, and indeed there was no need of his declaring, that no one who had given evidence should suffer by it in any way.

Witness said to a question from the COURT—That he always wished to leave this, that he could not bear it, and added, that he was always treated with severity; he had for a long time behaved in such a manner as that there were no reports whatever against him, and he had not the same fair play nor was he so soon advanced as Peter Walsh, James Abbott, Edward Herbert, Patrick Barry, and William Clarke, who were not kept half so long in the lock-up class as witness; all these prisoners are still here.

Witness, before he withdrew, again begged that there would be in future no obstruction to his going to Chapel, and that he would not suffer by any evidence given here to-day.

Mr. ROWAN, in reply to a suggestion of the Court, that he (Mr. Rowan) should impress upon the prisoner the groundlessness of his fears, said, that he really could give no pledge of the kind, as it would imply that the witness had at some time received obstruction —he had always had perfect freedom.

Witness—Yes, governor; when I said at last that it was against my conscience to continue going to Church.

Mr. TOWNSEND—I think this is a case of such decided determination to go to a certain place of worship, that there is no occasion for a "probation," as it is called—do you not think so?

Mr. ROWAN observed, that he thought it not exactly right to be obliged to argue the question before the prisoner.

The prisoner was ordered to withdraw for a while.

Mr. TOWNSEND—Am I to understand that you do not answer the question?

Mr. ROWAN—"Oh! not at all, Sir; I would only say that a general rule has been established, and that I cannot see that any thing particular has occurred to induce an alteration of it in this instance."

Mr. TOWNSEND—If I understand the nature of this regulation that has been established by you, it is to prevent any thing like coercion or interference—now, here there is a decided determination to go to Chapel, and in this instance I would suggest a remission of this rule."

Mr. ROWAN at length agreed, at the suggestion of the Court, to allow the prisoner to go to Chapel on next Sunday, that is, he would let him, if nothing occurred to make him think it was unsafe to do so.

Witness then was ordered in, and was told he would be allowed to go to Chapel next Sunday, if he did nothing to deserve punishment between this period and then—Witness expressed his gratitude for this, and said, that he had never ease of mind since he went against his conscience; and that he believed he would not have such a load of misfortune on him if he had not done so. He said, he was always anxious to leave this to be sent to Botany Bay, or any other place, but while he remained here he would wish to go to his own Religion,

Mr. ROWAN said, that he begged to remind the Court, that if witness went to Chapel he would most certainly meet the man (the officer) whom he had deliberately sworn to murder.

Rev. Mr O'DONOVAN said, that, with great submission to the Court, he would remark, that if there were that danger, the officer might easily be changed, but that it was a little ridiculous to hear a prisoner openenly threaten an officer's life, and then to imagine that danger was really to be apprehended.

Witness withdrew.

Patrick Doorley (the witness examined yesterday) was re-called for the purpose of being examined by the Court on the conversation deposed to by M'Cann,

Was present at a conversation between the governor, Mr. Somerville and M'Cann, who was then in the division with him, on the subject of Religion; thinks it is about a year ago. M'Cann reported to see the Priest; on going back from school the day M'Cann reported to Mr. Somerville, that he wished to see the Priest—Somerville told him that he should report to the governor. The next day M'Cann asked Somerville did he report to the governor, and Somerville said he did not. "Do it now then," said M'Cann, "the sooner I see the governor the sooner I'll see the Priest." In the course of some days after, cannot tell in how many days, the governor came round; the prisoners of the division were ranged up along in the day-room; the governor asked, had any man of them any thing to say? The governor said, he came to see that, and that the principal part of his business was to see M'Cann. He asked M'Cann did he not propose to see the Priest? M'Cann said he did; that he did not wish to go to Church any longer. The governor asked him did he not say when he came in that he was a Protestant, and would go to Church? M'Cann said, that when he came into that division there was no prisoner in that range but himself, and that he did not know what he was doing, and that for the future he would wish to go to Mass. The governor asked him to assign a reason for doing so. M'Cann said, no person belonging to him ever went to Church—M'Cann also said, that his conscience did not allow him to go to Church here, and that whenever he got his liberty he would go to Mass. The governor said to M'Cann, what was it to him where any person belonging to him went, that if they did amiss, was that a reason he should? That is all the conversation

that witness recollects; he heard all that passed, but cannot recollect it.

To a question by Mr. Rowan—Believes Hearn, Tuoney, Barry, Narkin, M'Cann, Atkins, and he believes Magee and Peter Walsh, (prisoners) were all, as well as witness, present at the conversation, to the best of witness's knowledge; every one who was there could hear the conversation.

Witness withdrew.

Bridget Brenan sworn and examined.

Is a prisoner here; has been always a Roman Catholic.

On being interrogated as to whether any person had ever tampered with her, the witness begged that no questions would be asked her on this subject, that she was dreadfully frightened—Witness was told by the Court not to be frightened nor alarmed. The assurance by the Court of her safety in giving evidence, appeared to restore the witness to some composure, and the examination proceeded.

Examination resumed—When witness came here, Miss Freeman was not here; Miss Connolly (now Mrs. Keppel) was acting matron; when witness came here, she was kept a month without going to any place of worship. The first day Miss Connolly and Mrs. Butcher, a warder of second class, came to witness, and asked her of what Religion she was? witness told her that she was and ought to be a Catholic, although she had disgraced her Religion by doing that which brought her here—Miss Connolly told her, that if she continued to be a Catholic, this was a bad place for her to come to, as the Priest did not come here more than twice a year (Christmas and Easter, to hear confessions) unless when he came on Sundays to celebrate Mass. "Well," said witness, "I am well satisfied with that, and will put up with it, since I can go to Mass on a Sunday."—"Well but," said Miss Connolly, "if you were a Protestant, you would get leave to go once every week-day, and twice on Sunday."—"I never was a Protestant, nor was there ever one belonging to me," the witness replied. "If," said Miss Connolly, "you continue to be a Catholic you will be locked up in your ward for eighteen months, and will not be let see any body, and if you become a Protestant, you will get out in a much shorter period of time."—Witness said. "she was willing to bear with all, that if God permitted her to remain in the ward itself, she would cling to her Religion, that it was the choice of her mind and her soul;" they went away. The governor came to her three or four times during the month, and told her the rules of the place, and said to witness, "that he was a Protestant himself, and that this was a Protestant Establishment, and that he wished from his heart that they would all, that came into it, be Protestants." The whole class of women were present at this; Mary Frazer, Sally Donnelly, &c.; Mrs. Butcher was not then the officer. The governor then told witness that as soon as they would

get the officer there, there would be prayers twice a day, and that he hoped he would see them all with one heart, and one mind, coming to prayers. Every time the governor came he told them the same thing; the governor gave them so many days to consider would they go to Church, or not. When Mrs. Butcher brought out the list, and called out their names, three or four out of the nine consented to go to Church. Mrs. Roberts was appointed their officer on Friday, and on Sunday the governor came, and began to tell Mrs. Roberts the rules, and said, that on Friday the Protestants got broth, and the Catholics milk; and said at the same time, that milk was not so comfortable of a cold day in winter, as good broth. The governor told Mrs. Roberts that he was a Protestant, and that he would have all his officers Protestants, and that he wished the prisoners were all Protestants, as it would enable them to receive more instruction and education from their officers, and would enable him to give them more indulgence than if they were Catholics. This was more than a month after witness came in; it was on Friday she came in first, and this was on the Sunday after the Friday month. The fifth Sunday witness got leave to go to Mass, but she did not get leave to speak to Mr. O'Donovan until the sixth Sunday; when she spoke to Mr. O'Donovan she asked him about going to prayers to Mrs. Roberts, and asked him did he allow her (witness) to go to prayers? Mr. O'Donovan said, she was not allowed to go to any prayers, but her own. On the next day when Mrs. Roberts had prayers, witness would not stay to listen to them. Believes that Mrs. Roberts then reported her to Miss Connolly for going out from prayers. The next time the governor came, he asked Mrs. Roberts how they were all going on, and asked her, did they all hear prayers; Mrs. Roberts said, they all did except witness; and Mrs. Roberts then repeated the particulars of the conversation which had occurred between her and witness, and witness's refusal. The governor asked witness did she go out from prayers; witness said she did. The governor said, "I always thought there was something dark and steadfast about you in your Religion, but I will subdue and change your mind far from what it is, if it lies in my power, before you leave this place." Witness said he might do what he pleased, but with the help of God it would give him a great deal of trouble to subdue her and change her mind. The governor did not come any more on that subject there. They did nothing to witness then, more than keeping her in the third class for sixteen months, while many of those who went to Church were let out in six months; was in the second class, in Miss Howard's class; Bridget Mahon, a Catholic, who had turned to Church, and whose family witness well knows those ten years, was in the same class with witness; witness always sat near her, because they were so well acquainted. One day she was talking as softly as possible about her mother, and wondering what kept her away from her so long, when Miss Howard saw witness and Bridget Mahon speaking, Miss Howard, witness thinks, sus-

pected that the subject of the conversation was witness endeavouring to persuade the girl to come back to her own Religion ; (Miss Howard) went immediately to the matron ; Miss Freeman was the matron; Miss Freeman then changed her to Miss Taggart's division, which was in the same room, but not in the same class. The matron said to witness on putting her in, that she (witness) came here not to meddle in this work ; that if she were a Roman Catholic she was to mind her own business, and not to endeavour to turn the people from the Church of England to the Church of Rome. Witness said, that she was not speaking to the girl on that subject, but that she was speaking to her of her mother, whom she (witness) had known for ten years. The matron also said, that the governor was a Protestant, and that she was a Protestant, and that she (witness) might be sure the Protestant was the right Religion, and that it was the only way to salvation ; " and to tell you the truth," said she, " Brenan, we would wish you were all Protestants, not Roman Catholics." Miss Freeman then went away, and the governor came down to try the witness about it ; and the governor was told that she (witness) was endeavouring to turn the girl from the Church of England. The governor asked witness did she know what she came here for ? Witness not understanding him said, " No." " Well then," said he, " it is *not* to turn the people from the Church of England to the Church of Rome." Witness said she did not turn any one from it. " Well," said he, " Brenan, you must know it is a Protestant Government, that is in this place, and it is a Protestant Establishment, and an Institution that was made for Protestants, and not for Roman Catholics ; and it is only the goodness of Government that allows a Roman Catholic to come here at all, that it might be the means of turning them from their own errors, and the errors of the Church of Rome to the true Church, the Protestant ; and I will tell you, it is only the goodness of the Government that allows you a Roman Catholic Chaplain at all here. I am myself a Protestant, and I could wish from my heart, that you were all Protestants." He said this going away out of the room.

There was not a time while witness was in the division, and that a new prisoner came in, or that the matron or the governor came down, on any religious subject, that they did not use the same language as prisoner has repeated. Witness has told these things to Mr. O'Donovan ; and he told her to be patient and to pray to God for comfort and strength to bear with this treatment. Shortly after this, probably the day after, when prayers were going to be read, witness, who was leaving the place, was stopped by Miss Taggart, who asked witness—" Where was she (witness) going ?" On (witness) telling her that Mr. O'Donovan desired her not to stop to hear prayers read ; she (Taggart) replied, " unless Mr. O'Donovan could come and make out that the Old Testament was not the Word of God, as well as the New Testament, she should remain, and that he (Mr. O'Donovan) had no authority there to

make rules and regulations." Miss Taggart asked Miss Howard was not what she said right?—and Miss Howard said to her (Taggart) that they had no right to interfere in such things, and that they (the Catholics) should be allowed to do what their Clergyman desired them to do. It was either that day, or a day very near it, prisoners were at their dinner, when Miss Taggart began to sing either psalms or hymns; one of the girls (Sally Donnelly) went out when the singing began; Miss Taggart followed her out, and asked her why she did not finish her dinner, and that she had not time to have done. Sally Donnelly said, when you have done singing, Miss Taggart, I will go in; Miss Taggart made her come into the room; some of the women began to laugh, and Miss Taggart said it was no laughing matter; that she was sorry to see the people here so blinded to their own destruction, and that they were like to a blind rock. Sally Donnelly said, that she did nothing but what Mr. O'Donovan bade her; "Let you take care," said Miss Taggart, "that he is leading you right."

Another time after that, the prisoners had dined, and went down to the yard after dinner; it was raining, and they went into a dark cell or ward; two of the girls began to dance in the dark ward; witness told them it was fitter for them to clean the pewters (the vessels they used at dinner) than be dancing; and that she would report them to Miss Taggart, if they did not do so; supposes they thought she would report them, although she did not intend to do so; and knowing that the governor and the officer thought that witness was advising Biddy Mahon to go back to Chapel, they went up, and one of them told Miss Taggart that she (witness) was endeavouring to persuade one of them to return also; Miss Taggart when she heard this, took the informants, two or three of them, into the room, and one of them told Miss Taggart that witness was persuading her. (Witness here solemnly appealed to God that she never did any such thing; and that their object was to anticipate the report she intended to make.) Miss Taggart reported to the governor, and the governor came and asked witness did she do such a thing as was described, which witness denied; the governor said that she ought to be cautious; that he had witness to prove that she did. Witness still denied; the governor went away, and questioned Kitty M'Donogh (who is now in the prison) who was one of the dancing girls (Kitty Sullivan was the other) and one of the worst behaved girls in the house; M'Donogh said, she (witness) did what she was charged with; witness appealed to the governor to hear her, but he raised his hands and said he would hear nothing from her—that he had evidence against her, and would punish her; he went away then; it was Tuesday, and in eight days after Miss Freeman came down with an order to put witness in the third class; witness was then put down, and kept ten or twelve weeks in the lock-up class; was for two days closely confined; and for the remainder of the time was treated as the rest. Has nothing to say against Miss Freeman—she is a very tender-hearted woman.

Mr. ROWAN explained that the females in the third class, have three hours relaxation, and the males half an hour; and that in case of misconduct it is usual to diminish the time of relaxation.

Witness on hearing this explanation said, when she came here, she was for four months and never got more than half an hour.

Examination resumed—Got out of the third class, after twelve weeks into the second class; Mrs. Noble was the officer; when Mrs. Noble and Miss Taggart had prayers, the Roman Catholics always went out; there was a mat at the door on which some of the Catholics used to sit; one day when they went out they were surprised that they neither heard singing nor praying; there was a girl who had in this prison turned to Church (Anne Morrison); she wished to go back again, and had put her name down for that purpose; always when a Catholic puts down her name for such purpose, the blame of the change is laid upon some of the Roman Catholics in the division; Miss Taggart was on this day talking to this girl; witness was listening at the door; Miss Taggart told this girl that the word of God was entirely gone out of the Church of Rome; there were others as well as witness listening outside: Miss Taggart said that Mr. O'Donovan was an abomination in the sight of God and man; witness's feelings and those of her fellow Catholics were greatly hurt by this; afterwards told Miss Taggart that their feelings were touched by this language, and that they would tell it to the governor that they could not stand there on account of their Religion; and "God knows" added the witness, "we can't either nor any body else, but the hypocrites-" Miss Freeman brought Mr. Higgin, who settled it as peaceably as he could, and said he would surely bring the governor—the governor was then from home; Mr. Higgin, when the governor came home, did bring the governor, who inquired how it happened. The governor then said, according to his custom, that if they did not bring a right complaint against Miss Taggart, he would punish them with the utmost severity. It is hard to make a complaint appear to the governor to be a right one, for be scares them so, and threatens them so, that they, the prisoners, are afraid, and then at length in the hope of not being punished, they withdraw their complaint. The governor kept them from eleven till two o'clock—the governor went away, and they never heard more of the report.

It being now the hour of adjournment, the witness was directed to withdraw.

The COURT then adjourned until Monday, August 14th, that being the earliest day on which Major Woodward and Mr. Townsend could promise to attend.

ADJOURNED INVESTIGATION.

Adjournment—First Day—August 17.

In consequence of the absence of Mr. Townsend, on circuit, the Investigation stood adjourned from the 14th of August to this day.

Mr. Rowan seeing Mr. Dolan in the room, wished to address a few words to the Commissioners present, as to his being there.

Mr. Townsend stated, that when the third Commissioner, Mr. Palmer, (who had not yet arrived,) should come, he had a communication to make to Mr. Dolan from the Government, after which he would expect Mr. Dolan would retire.

Mr. Townsend on the arrival of Major Palmer, stated that he was desired by Mr. Goulburn to say, that he had received a letter, and that he desired that Mr. Dolan should furnish this day, the names of such persons at present on board the hulk, as he wished to have examined, and that they should be in attendance to-morrow; and if any further names were mentioned after this day, the application should not be attended to, as the convict ship could not be delayed from sailing.

Mr. Dolan said he laboured under this difficulty, that at present he knew the names of only four persons whose evidence was material, but he certainly would require every person on board, who had been in the Penitentiary, to be examined. He should have to examine Mr. Rowan as to their names; or he would call on the Commissioners to direct Mr. Rowan to hand in their names.

Mr. Rowan declared his utter ignorance of the number of persons on board the hulk, who had been inmates of the Penitentiary.

Mr. Dolan said, that in that case he should confine his application to the four persons already mentioned to Mr. Goulburn, with the addition of Rossin and Walsh the second, the latter he would particularly require, if he were at Kingstown or Cork. Mr. D. said that on a former occasion, he was objected to from attending as a note-taker, as he happened to be an attorney. He now saw Mr. Glascock, who laboured under the same misfortune of being an attorney, and who now attended as a note-taker for Mr. Rowan, and this professional assistance would be a great advantage to Mr. Rowan.

Mr. Glascock replied, that he had not been an attorney these

four years ; he had served by terms, and was about to be called to the bar.

Mr. DOLAN—That makes the objection stronger.

Mr. TOWNSEND—Our objection to Mr. Dolan was, that he was Agent to the parties. We shall not hear a single word from Mr. Glascock.

Mr. DOLAN now begged to call the attention of the Commissioners to an an application he was about to make to them, and which was rendered absolutely necessary by the new feature which the Inquiry had assumed. The Commissioners being about to inquire into the occurrence of acts of cruelty unconnected with the purposes of Proselytism, he reminded them of the circumstances which accompanied the consent which had been entered into, to forego at both sides the assistance of Counsel and Agent; and appealed to the notes of the Crown Solicitor to bear out his assertions. On the first day, Mr. Rowan proposed to have the enquiry conducted without Counsel or Agent; this was refused on the part of the prosecutors. On the following day, Mr. Blackburne, on the part of Mr. Rowan, repeated the offer, and it was again refused. After a good deal of discussion, Mr. Dolan stipulated that he should be allowed to examine his witnesses, including the prisoners, before they were produced to the Commissioners, that he should take down their evidence and send it to the Commissioners, who would examine them from such abstract (without putting leading questions) and that he should be provided with an apartment for that purpose. This was acceded to, and upon these conditions he consented that Counsel and Agent should withdraw ; the stipulations upon which the consent was founded, were acted upon for that day, and for that day only—every one of them had been violated.

Mr. TOWNSEND—How so ?

Mr. DOLAN—He had applied to the Commissioners in writing to be permitted to see a prisoner (Charles Grey), and had been refused.

Mr TOWNSEND had no recollection of the circumstance.

Mr. DOLAN said that he had not only his own written request, but he had Mr. Townsend's answer at the foot of it, in his handwriting, refusing his application.

Mr. ROWAN admitted the circumstance, but said, that at the time Mr. Townsend gave his reasons.

Mr. DOLAN said, it was a naked refusal, unaccompanied by any reason. He had sent in an abstract of the testimony of the first witness, and the Commissioners would not receive any more abstracts. He said also that he had received a message from the governor, desiring he would leave the apartment which had been provided him.

Mr. TOWNSEND did not recollect the circumstance, he never heard of it before.

Mr. ROWAN said he certainly did give the directions because Mr. Dolan had brought in witnesses to be examined, whom he could examine elsewhere.

Mr. TOWNSEND said he did not recollect any stipulations, there was a consent entered into which he took down in writing, and there was no mention of any conditions—if there were conditions they were separate from the consent, and if ever broken, it they did not affect the consent.

Mr. DOLAN said he would willingly appeal to the notes of the Crown Solicitor.

Mr. CARMICHAEL read his notes, which stated the several conditions before mentioned, as to Mr. Dolan being at liberty to examine before-hand, and having an apartment for that purpose,

The following is a copy of Mr. Carmichael's notes, as read by himself.

" Mr. Dunne proposes to furnish abstract of evidence to Court, " who may examine and cross-examine, without the assistance of " either Agent or Counsel. This arrangement agreed to on both " sides. Rule.

" If Agent desires to examine any prisoners, he shall, on " proper application to the Court, be permitted to examine such " prisoner in private, but shall simply question him, but not " inform him of any thing."

Mr. DOLAN now said, the fact was admitted, that the consent was conditional; those conditions has been violated—admitted to be violated—and he now contended, that the consent fell to the ground, and the parties stood in precisely the same situation as the first day of the Investigation.

Mr. ROWAN said, he had not hitherto interfered, but he protested against Mr. Dolan being heard at all.

Mr. TOWNSEND said, it was quite competent for Mr. Dolan to show the Commissioners that he had a right to remain, and to have the assistance of Counsel.

Mr. ROWAN said, that without meaning to impute improper motives to Mr. Dolan, he would take the leave to put the case hypothetically, and say, that the privilege now contended for by him, to have access to the prisoners would not only destroy all discipline amongst them, but afford an opportunity to them of being told what to depose to. He had been endeavouring for a long time by a certain course of discipline to render them good subjects and good Christians, and such a proceeding would at once destroy the effects of all his labour.

Mr. DOLAN read part of the minutes where Mr. Townsend expressed his strong desire to have Counsel, in order to abridge the Inquiry, and prevent what he termed " fishing for evidence." He also dwelt on Mr. O'Donovan's incompetence, contrasted with Mr. Rowan's acuteness in examination, and showed the advan-

tage which Mr. Rowan possessed in having access to all the prisoners.

Mr. O'Donovan—Yes; and he has examined them also.

Mr. Rowan said he had been particularly cautious in that particular, and had abstained from any intercourse with them, but he must say that Mr. O'Donovan had spent every day in the prison, telling the prisoners of the investigation and the evidence.

Mr. O'Donovan—denied the allegation, and added, that there were now four persons whom Mr. Rowan had locked up and prevented going to Mass.

Mr. Rowan explained as to these persons. By the rules of the prison, they were not allowed to make more than three changes of Religion.

Mr. Dolan requested the Commissioners would take a note of this rule.

Mr. Dolan wished to know the determination of the Commissioners as to having Counsel; he referred again to Mr. Carmichael's notes as to the conditions of the consent, the subsequent violation of those conditions, and the necessity of the measure, as more than once expressed by Mr. Townsend himself. He said if the Commissioners would, under those circumstances, refuse to allow him Counsel, he would enter his solemn protest against such a course, and would tender it to-morrow to be inserted on the minutes. It was a question of the most vital importance to this Investigation, which, it should be recollected, did not alone involve the character of Mr. Rowan and his underlings, but the administration of the prison generally, and perhaps many prisons throughout Ireland. It was not the punishment of individuals alone that was sought for, it was a change of the system.

Mr. Townsend said he would bring down his notes to-morrow, and in the mean time let the question stand over. He said, however, that the course hitherto pursued, had been acquiesced in for eleven days.

Mr. Dolan begged pardon for reminding the Court, that three several times he attended to protest against the course pursued; and upon this point he would have no objection to appeal to any uninterested person in the room; he would appeal to the Rev. Mr. Higgin, a gentleman with whom he never exchanged a single sentence.

Mr. Rowan, after expressing his deep respect for the Court, and his willingness to defer to their judgment, hoped he would not be considered as impugning the proper judgment of the Court, by making a representation to the Government, if he thought any act on their part would tend to the subversion of the prison discipline. He (Mr. Rowan) had for years devoted his time and his labour to the study of a system of discipline, which he might say was philosophically suited to a prison, and he trusted he would not be considered as contumacious, if he represented to

the Government, that such a proposition as that made by Mr. Dolan, would have the effect of utterly destroying the prison. He was sorry to say that there was now an officer of the prison, who, instead of being engaged in inculcating christian charity, was propagating doctrines in the prison, destructive of good feeling and discipline.

Mr. TOWNSEND said, that Mr. Rowan was perfectly at liberty to do what he pleased as to making an application to the Government, and he could feel no displeasure whatever at it.

Mr. O'DONOVAN indignantly denied the justice of any allusion made to him by Mr. Rowan; he (Mr. O'Donovan) asserted that he never in his life inculcated any doctrine, or did anything else subversive, either of christian harmony, or the discipline of the prison.

A conversation here occurred regarding the proposition made by Mr. Dolan, of being allowed the assistance of Counsel.

Mr. TOWNSEND said that if the consent were of the nature stated by Mr. Dolan, decidedly it had been violated, and the parties stood in the same situation as they were before the consent had been entered into. In reply to an inquiry from Mr. Rowan, Mr. Townsend replied, that most certainly a special order of Government could interdict Counsel from attending. The Court was not regulated by any legal construction, it was merely an inquiry directed by the Lord Lieutenant, for the sake of procuring information on a particular subject; it was discretionary with the Government to determine the means by which that inquiry could be best facilitated, whether by the assistance of Counsel, or without it.

Proceedings resumed.—Bridget Brenan (the witness whose examination was interrupted the last day) produced, and reminded that she was on her oath.

Thinks there was a difference made between the Protestants and witness; thinks she was treated more cruelly than them; last July twelve month, there were three of the male convicts who broke into the division where witness was; these persons broke every thing in the ward, even to the metal bed posts, that they could lay their hands on; they even broke the locks of the ward door; when they broke the lock of witness's ward, they commenced the work of destruction; witness's prayer book was on the window, and witness called out to them not to destroy her prayer book; they said they would not, although they were Protestants and she was a Catholic, injure her book; there were two persons, and she never saw them before; when witness saw them so civil, she began to pity them, and to pray to God to turn their hearts; witness asked them why they were doing what they were then about? they said they were flattered and induced to become Protestants, but they repented and wished to go back, and not being permitted, they had become desperate, (witness here proceeded to detail the proceedings in question, and the bringing of the soldiers to secure the others, and of the firing of the soldiers subsequently on them, and

of her using a gesture, which she stated was one of supplication, but to which the officers of the prison gave a different meaning); witness unlike other fellow prisoners, was not promoted after this, when others were promoted, and she was told that her not being promoted, was, in consequence of her making signs to the men; the other woman who came after witness to the prison was promoted in September, and witness was locked up till December. Miss Freeman and the governor told witness that her punishment was on account of her making signs to the men, who broke into her ward. Mr. Crofton was present.

Mr. James Crofton, Secretary to the Penitentiary, sworn.

This witness deposed that he saw the witness make a gesture, which, on deliberation, he considered as a supplication imploring the men to leave her, and not in any other sense; Miss Freeman afterwards exonerated the witness from any bad meaning; witness had declared that if these men persisted in their conduct, the soldiery who were present should fire upon them, as they afterwards did, and thinks this gesture of Bridget Brenan, was an indication to them to retire, in order that they should not be fired at; witness at first thought there was harm in the gesture made by the women, but was afterwards convinced there was nothing bad in it.

Miss Freeman being sworn—

Deposed, she at first thought there was harm in the gesture related; she was told by the serjeant of the guard, that witness (Brenan) was the only woman who misconducted herself throughout the business; afterwards discovered from Mr. Crofton, that there was no fault in her conduct, but that the witness (Brenan) was not immediately after the discovery promoted, certainly the impression made by the opinion at first entertained of her behaviour, was a cause of her not being promoted.

Examination of Bridget Brenan, resumed.—Saw Margaret Mulraine punished for having a lighted candle at night in her ward, and the candle was in the straw bed; Margaret Mulraine was a reformed Catholic; the governor confined her in solitary confinement for a month, one week of which he afterwards remitted, and one of which, she got bread and water; heard Miss Freeman and Mrs. Cooney, and Miss Howard say, that what she now mentions, was the cause of her punishment; witness was for three months punished for nothing, and for the heinous offence Margaret Mulraine committed, she received much less punishment; there were besides two pair of new stockings found on Margaret Mulraine's bed, which she could not come by honestly, as the prisoners are only allowed two pair of stockings in the year; this was also another cause for the punishment of Margaret Mulraine; still she (Mulraine) was only confined three weeks, if it could be called

confinement, for during the entire time her ward door was almost constantly open, and she had access to Miss Howard's room; Mulraine was not reduced, nor did she suffer any other punishment; thinks the severity used by the governor to her (witness) as well as the lightness of Mulraine's punishment, was owing to religious feelings; the governor said to her as she before mentioned, that he would subdue her (witness); has seen Margaret Mulraine during her "confinement" in Miss Howard's room, and walking about the yard, and quite at liberty.

On Sunday, shortly after witness came in here, she was standing on her form reading a chapter in the Testament; it was the 5th chapter of the Acts of the Apostles; the governor came into the yard where witness's window looked into, "I see you there, Brenan," said the governor, "and I will punish you for being there during Divine Service;" witness did not go to Church, and it was during Service at Church that this occurred; witness did not think that she would be punished for so trivial a thing as this. The next morning witness was ordered to be put on bread and water, and was accordingly kept on half a loaf of bread and some water, from half-past nine on Monday morning until the same hour on Wednesday; told this circnmstance to Mr. O'Donovan the next time he came.

Mr. O'DONOVAN here said that he had some recollection of being told the occurrence by witness.

As witness before deposed, she was put down to the third class, on suspicion of having advised a girl to go back to Mass; Catherine Salmon, a prisoner, had become a Protestant and returned to the Roman Catholic Church; one evening this girl took sick, and was very ill that night; when the prisoners were about being locked up, Biddy Jones, a Catholic, asked Miss Howard leave to go to, and stay with Salmon, she being so very ill; Miss Howard refused her and would not let her in; Eliza Mellish, another girl who was going to Church, then asked Miss Howard for permission to go into the sick woman's ward and got leave; when Mellish first went into the ward, Catherine Salmon put her out and would not allow her to remain; Miss Howard then said if Salmon did not allow Eliza Mellish to remain, no other woman should go to her, and then locked the door upon her; in the course of the night Catherine Salmon got very bad and called out to Mrs. Cooney, the warder, who was on watch, and Mrs. Cooney then opened Catherine Salmon's ward and sent Eliza Mellish in to her; Salmon having got worse, did not prevent Eliza Mellish from remaining; this was on a Friday night, and on the Saturday morning witness when she got up went to Salmon's ward to inquire after her; she (Salmon) told witness she was very ill and said she would wish to see Mr. O'Donovan if she could; all this occurred within these two months; witness desired Salmon to speak to Mrs. Noble, who could report for Mr. O'Donovan, as she was the proper person; (on that day Mrs. Noble was doing duty for Miss Howard;) Salmon then spoke twice in hearing of witness, to Mrs. Noble, and expressed her wish to see

Mr. O'Donovan ; about twelve or one o'clock in the day, Salmon asked witness was there any sign of Mr. O'Donovan coming ; on Sunday, Mary Connell, Bridget Jones, Biddy Meehan, Rose Dowling, Mary Flynn and witness, were in Catherine Salmon's ward ; they wanted Eliza Mellish to go to Church, and said to her that one of them would stay in her place to attend to Catherine Salmon ; Biddy Jones said that they might all go to Church, and that she, in their absence, would take good care of her, and would read for her ; Eliza Mellish replied to Bridget Jones thus, "no, you will not stay nor read for her, for she is a Protestant;" Bridget Jones remarked that she (Salmon) had soon changed her mind, for that yesterday she (Salmon) had been calling out for Mr. O'Donovan ; Mellish said that she (Mellish) had changed her (Salmon's) mind, and that it was not surprising that she had done so, as she (Salmon) was her comrade for two years ; (witness then observed, that it was rather hard that she (witness) should have been reduced from the second class to the lock-up class, on the suspicion of doing that which she never did, and which she denied doing; that is, interfering with the Religion of a prisoner, and that she (Mellish) had done the same thing openly and had acknowledged it, and still that nothing would happen to her (Mellish) for doing so; that night, when Mrs. Noble was locking up witness, she desired Mrs. Noble to report for the governor to come as she wanted him ; witness did not tell Mrs. Noble what she wanted of him, which was to tell him about Mellish; the governor never came; witness was expecting every day that the governor would come to ask her what she (witness) wanted with him; had an opportunity last Sunday of telling the governor of this circumstance, but did not then recollect it; has seen tracts circulated.

Witness—"Oh! Sir, I hope you will ask me no more questions ; to tell you the truth, I am afraid of the consequences of all I say ; I would not have said a word about this only you put me on my oath, particularly since the governor came into the work-room a short time before I was first examined, and said there were a few fire-brands here, whom, after the Investigation, he would use with the greatest severity ; I did not know what Investigation he meant then ; but he said he would not keep fire-brands here, and he would banish them.

Mr. TOWNSEND—"Is it the fear of the governor that prevents you telling of the tracts ?"

Witness—"Indeed, Sir, it is."

Mr. ROWAN—"Do not be afraid of me; you are safer than ever you were."

Examination resumed—Has seen tracts here against the Catholic Religion, read two of them ; one in Mrs. Arendale's division, and another in Mrs. Roberts' division; the tract which she read in Mrs. Arendale's division was circulated for the prisoners to read; found the tract in her own ward; Mary Neill, the cleaner of the ward, brought it to witness; Biddy Jones another Catholic

had a tract of the same kind; witness saw it with her (Jones); knows that the work was entitled "The Difference between Protestantism and Popery," (see appendix A.) Both the tracts were the same; has seen other tracts and has got them to read; has got them to read from Mrs. Duigan, (now Mrs. M'Cloy); these tracts did not make much impression on witness at the time; Mrs. Duigan had a little child who used to circulate the tracts; the child in giving witness one of them used often say, "Biddy, my mama desired me to give you this to read." Miss Taggart has upbraided witness with her Religion, from which she said the word of God had entirely gone out, and said that they (the Catholics) were filled with licentiousness, and that Mr. O'Donovan would tell them to go and worship sticks and stones; has seen Miss Taggart, and Mrs. Duigan, and Miss Conolly, (officers) laugh and skit during Mass.

Rev. Mr. O'DONOVAN here, in reply to Mr. Townsend, stated, that he had heard of this conduct, and had mentioned it to Mr. Rowan.

Mr. ROWAN observed, that the first intimation he had of it was within these four months, by a letter from Mr. O'Donovan.

Mr. O'DONOVAN said, he had spoken to him of it soon after he (Mr. Rowan) had come here—(to witness)—"Are you afraid of being punished for your evidence here?"

Witness—"Indeed I am Sir."

Mr. ROWAN indignantly protested against this question, which was not only a leading question, but besides, prompted the witness.

The COURT concurred in this opinion.

Witness—In reply to the interrogations of Mr. Townsend, declared she had told nothing but the truth, without being influenced by fear or any other consideration; and that, regardless of the consequences, she would repeat her testimony if necessary; was never kept from Mass during any punishment.

Mr. ROWAN—"I think, at all events, that with regard to the prevention of a prisoner in punishment from going to worship, as the rule equally applies to all prisoners, Protestants as well as Catholics, there can be no cause of jealousy or complaint."

Mr. O'DONOVAN—"Aye, but I beg to tell you that the advantages of Religion should not be taken away from any prisoner. In the Catholic Church it is an obligation upon all its members to hear Mass on Sundays and Holydays, and with the exception of this place there is no rule in any prison that would interdict them."

Mr. ROWAN—"I am the governor of this place, which is not a prison; and I will use my discretion in the regulation of all matters necessary to its discipline."

Mr. ROWAN, in allusion to a cross-examination, said, he would not incur the responsibility of asking such a witness any question, unless one, and that was, "Did not he give her in the presence of the Inspector General an opportunity of making any complaints she

had?" To this inquiry the witness answered in the affirmative, and said, that on one occasion, the precise time of which she did not recollect; he (the governor) did ask her had she any complaints.

Rev. Mr. O'DONOVAN to Mr. Rowan—"I beg to say, Mr. Rowan, that I would thank you for some Prayer Books and Catechisms for distribution; may I understand that I will get them?"

Mr. ROWAN—"What is your object in asking the question now; is it to imply that I require the correction of the Court on the subject; of course the books will be given when the application is made for them in a proper form, and the application transmitted to me in the regular way; of course the prisoners will not be refused Prayer Books, if I should see no good cause to induce a refusal of them."

Mr. O'DONOVAN—"Why, sir, they have been refused books—the women have been refused books by Miss Freeman."

Witness—"We are obliged to pay for our Catechisms, too, sir."

Mr. TOWNSEND—"No, no; it has been arranged that you are to receive books on the same terms as the Protestant prisoners."

Mr. ROWAN—"I will give no explanation on the subject now. I did consent to the arrangement of which Mr. Townsend speaks; but circumstances have arisen since to—

Mr. TOWNSEND—"Mr. Rowan, I spoke to Mr. Goulburn on the subject, the day on which it came under our observation here; and I have his concurrence in my own opinion, and his directions that there shall be no difference in this respect made between the Catholics and Protestants. All that I can say about the matter is this—if you have received any order from the Government that interdicts you from doing what was agreed upon; or, if you think you have no discretion on the subject I will have the order preventing you rescinded; or I will apply in the other case, for an order to direct you to distribute the books."

Mr. ROWAN—"The truth is, sir, I would much rather say no more on the subject at present—it is an anticipation of my defence, and I would, most respectfully waive the consideration of this topic."

Mr. TOWNSEND—"Really, Mr. Rowan, I do not see how the matter is connected with your defence—Am I to understand that you will not give the books?"

Mr. ROWAN—"Oh! no sir; I will do what you desire."

Witness withdrew.

Mr. ROWAN—(to Mr. Townsend)—"After the room is cleared, may I beg the favour of a little private conversation with you, sir?"

Mr. TOWNSEND—"Why, really, Mr. Rowan, I do not think if you mean to speak on the subject matter of this business, it would be proper of me to have any conversation with you—On any other business, I should of course have no objection."

The COURT adjourned.

Adjournment—Second Day—August 18.

At the sitting of the Court, Mr. Bric appeared as Counsel for the Prosecutors; and to argue the right of Counsel attending generally.

Mr. ROWAN interrupted Mr. Bric, and applied that he should withdraw.

Mr. BRIC begged to know who was the gentleman who interrupted him?

Mr. TOWNSEND said, he (Mr. Rowan) was the principal accused. He (Mr. Townsend) was opposed to hearing Counsel at all.

Mr. BRIC said, he did not claim to be heard upon the general question, which formed the subject of the Investigation; but he submitted that he had a right to show why Counsel should be allowed at the future stages of this most important inquiry.

Mr. ROWAN said, that either that was a Court then sitting, or it was not; if it were, then he (Mr. Bric) was bound by its expressed rule; and if it was not a Court, it was his private apartment, and he (Mr. Rowan) should use it according as he thought fit.

Mr. BRIC inquired the meaning of the threat.

Mr. TOWNSEND—said, that any observation, such as had fallen from Mr. Rowan (for whom considerable allowance under his circumstances should be made) should have no weight with the Court.

Mr. DOLAN said, that whatever control Mr. Rowan might have over every other apartment in the prison, he could exercise none over that room while the Commissioners were present.

Mr. ROWAN complained of Counsel being brought forward to argue any question without any notice being given, and when he was unprepared.

Mr. DOLAN said, the question was so important, that the result of the Investigation in a great measure depended on its decision; he felt his own incompetence to argue the matter.

Mr. TOWNSEND said, that Mr. Dolan had been heard yesterday, very fully on the subject, and he had argued the question with much ability. The Court were fully decided as to not hearing Counsel at all. In this instance no notice had been given of Counsel intending to appear here.

Mr. BRIC asked was he to understand, if notice were given, the question as to admitting Counsel should be argued?"

Mr. TOWNSEND replied that in no case nor upon any question would the Commissioners hear Counsel—if the parties chose, either by themselves or their agents to make the application, the Commissioners would entertain it.

Mr. DOLAN now applied that Counsel should be admitted on the general question, and was proceeding to state the grounds of his application when—

Mr. ROWAN interrupted him, and said, his agent was not here.

Mr. TOWNSEND said, that he was here yesterday, and knew that this case stood over, and that Mr. Dolan was to be heard.

Mr. BRIC continued to press his right, but was appealed to by Mr. Townsend, to attend to the decision to which the Court had come—Mr. Townsend assured Mr. Bric of his readiness to entertain any question proposed by him, but upon this subject the Court were decided.

Mr. Bric retired.

Mr. DOLAN recapitulated his arguments of yesterday, relative to the consent and conditions upon which same were founded, and which he urged had been violated; and again referred to his notes and Mr. Carmichael's.

Mr. TOWNSEND read his notes, which contained the consent only. He appeared to think it right that Mr. Dolan should be allowed to examine the witnesses in another apartment.

Mr. ROWAN, before a rule would be made, begged to be allowed to show the great mischief which such a course would produce in the discipline of the prison. He did not mean to impute anything improper to Mr. Dolan, but if he were allowed to communicate with the prisoners, all convicted felons, it would lead to a scene of perjury, and would obtain, what otherwise could not be procured, a consistent story on the part of the prisoners. They would be made to agree upon the facts. He would enter a protest against such a proceeding.

Mr. DOLAN said, that the decision of the question appeared to turn upon a disputed fact. Mr. Townsend admitted that his notes contained but the conclusion of the agreement, without mentioning any of the circumstances which led to it. Mr. Dolan knew himself (and could prove the fact, if necessary, by Mr. Dunne) that it was because of these advantages that he and his Counsel, Mr. Dunne, on consultation, agreed to have the case conducted without Counsel. He also referred to Mr. Carmichael's notes, as corroborating his (Mr. Dolan's) notes, and he called the attention of the Court to the circumstances of Mr. Rowan withholding his notes, which had been taken very fully, and which he would pledge himself bore out his (Mr. D.'s) assertions. He called on the Court to require Mr. Rowan's notes.

Mr. ROWAN said, he could not give his notes, as they contained his Counsel's remarks.

Mr. TOWNSEND proposed, that the Agents on both sides should attend, and suggest the line of examination to their clients.

Mr. DOLAN agreed to this.

Mr. ROWAN asked time to consider and consult.

Mr. DOLAN begged, that in order to prevent any further misconceptions of facts, that the Court would take a note of his three proposals, any one of which he would abide by—first, to have Counsel and Agent present; second, liberty to examine prisoners according

to former stipulations; third, the attendance of an Agent at each side, to suggest the line of examination.

Mr. TOWNSEND now expressed his wish to proceed to examine the prisoners who were in attendance from the hulk.

Mr. ROWAN strongly contended against their being examined; and argued they were utterly incompetent, being convicted felons, and persons who had not been thought fit to keep in the country. He said, that the prosecutors, if they had any case, could sustain it by the officers at present in the Establishment, and officers who had been dismissed, without resorting to such tainted testimony.

Mr. DOLAN replied, that the prisoners from the hulk were as competent witnesses as the officers in the prison.

Mr. TOWNSEND said, that all the officers here were implicated, and that their evidence, in their own defence, would not be received in a Court of Justice; but that this Court did not feel itself bound by strict rules of law. The object was to ascertain certain facts for the information of the Lord Lieutenant. The prosecutors, of course, would not go into the enemy's camp for witnesses.

Mr. ROWAN said, he had now an application to make to the Court, which was rendered necessary by the recent determination of the Commissioners, to hear evidence on the subject of cruelties. He claimed to be furnished with a specification of the charges, containing the names of the prisoners, on whom it is alleged the cruelties were committed, with the dates and places. He was advised by eminent Counsel, that he was entitled to it. It was utterly impossible for him, without it, to disprove the allegations; and the Court would recollect, they were now about to inquire into facts, not detailed in the Memorial. It was due to him as the accused, as well as due to him as a public officer, placed there to maintain good order and discipline.

Mr. DOLAN, in reply to this application, said, he would remind the Court, that Mr. Rowan had formerly applied to them that when the case for the prosecution should have closed, he (Mr. Rowan) would not be called on immediately for his defence, but should have time to prepare it, and that this request, which was only reasonable, was acceded to. What was now sought for? a specification of names and dates. If the Commissioners conceived that this question should be decided by precedent, he submitted that the case of the late Queen was decisive. There a specification of charges was refused, upon the principle that the accused party was granted time to prepare her defence. But what further was in this case? Mr. Rowan sought to have the *names* of the prisoners. Now, without meaning any thing improper to Mr. Rowan, he must put a hypothetical case. Would not this circumstance afford an opportunity to Mr. Rowan, and those under him, who possessed power and authority over such prisoners, to use means to have their evidence suppressed in the interval before they were produced to the Court. The Court would recollect that he (Mr. D.) had not access to the prisoners.

Mr. TOWNSEND said, he certainly could not compare this inquiry to any thing so well as to a Committee of the House of Commons. Such a Committee never required a specification of charges, but inquired generally into every fact stated to them. In Courts of Justice, the particulars of the plaintiff's case were always required, because the defendant's case always followed immediately on the plaintiff's case. But here every opportunity would be afforded the accused to prepare their defence, when the case for the prosecution should close.

Mr. DOLAN was proceeding to argue the question, when—

Mr. ROWAN moved that Mr. Dolan should withdraw.

Mr. O'DONOVAN required that Mr. Dolan should be allowed to remain, and said he intended to apply to the Government to suspend Mr. Rowan during this Investigation, as he had frightened the prisoners from coming forward, and had locked them up.

Mr. ROWAN said, the Court would see what a state the Penitentiary was in, and what a difficult task he had to perform when an officer of the prison would presume to express himself in these terms. He (Mr. Rowan) thought it a matter for consideration whether he should not immediately suspend Mr. O'Donovan.

Mr. O'DONOVAN replied, that he held no commission from him (Mr. Rowan)—he held it directly from Government.

Mr. TOWNSEND interfered, and said his constant endeavour during this Inquiry had been to maintain good feeling.

After some further conversation,

Bridget Brenan (the woman who was examined yesterday) was produced by desire of Mr. Townsend, and repeated her depositions of the declarations made in the work-room before witness was examined here. The prisoners of the division, Protestants and Catholics, as well as the officers, were present; Mrs. Noble, Miss Taggart, and the matron (Miss Freeman) were present. No other officer was present.—Witness retired.

Mr. TOWNSEND here intimated his wish that all persons should retire for a few moments.

On the return of the parties,

The Commissioners having conferred for some time—

Mr. TOWNSEND said, that in the absence of the parties the Court had considered the three propositions made by Mr. Dolan, and it was the decided wish of the Court that the proposal this day made by Mr. Dolan should be acceded to, and that the expression of this wish should be added to the terms of the proposition. He (Mr. Townsend) was not afraid of being suspected if he were to call on Mr. Blackburne, (Mr. Rowan's Counsel) and if there were no objection, he would do so, and explain to him why he conceived it should be agreed to.

Mr. DOLAN had no objection whatever to Mr. Townsend communicating with Mr. Blackburne.

Mr. ROWAN again applied for a specification of the charges, and said it was due to him as the accused.

Mr. TOWNSEND—" The officers are also accused of cruelties."

Mr. ROWAN—" Yes, but I am substantially the accused person, as no one can be punished without an order from me—I am advised by my counsel, that I am entitled to it."

Mr. DOLAN referred Mr. Townsend to the case of Ilchester Gaol, where an inquiry was instituted into the conduct of the governor, at the instance of Mr. Hunt, in which the prosecutors were not bound to furnish the names of prisoners upon whom the cruelties were alleged to have been committed.

Mr. ROWAN applied that Mr. Dolan should now retire, and after some discussion, the Court directed Mr. Dolan to withdraw.

Major PALMER wished to know if the record or minute which Mr. Rowan sought for, was given, and that then anything incidentally came under the observation of the Court, would he not consider them debarred from prosecuting an inquiry into it?

Mr. ROWAN said, that he only objected to the refusal of the specification on principle; of course it would be discretionary with the Court in a case such as Major Palmer assumed, to inquire into matter incidentally brought under their notice, although it should not be contained in the specification.

Mr. TOWNSEND inquired, if the investigation were one merely of the Inspectors General, would they not find it their duty to ask generally through the prison, if there were anything to complain of?

Mr. ROWAN said, that he was acting under the advice of Counsel in this case, and the opinion of Counsel agreed with his own—namely, that he was entitled to a specification of the charges which were to be made against him.

Major PALMER did not think any legal opinion should have weight—the Inquiry was for the Lord Lieutenant's information. He (Major Palmer) was sure Mr. Rowan courted inquiry, and so did the Government, he was certain.

Mr. TOWNSEND said, that there was a great deal of time consumed in this discussion, and he thought the examination of the witnesses from the hulk should be proceeded in.

Mr. ROWAN continued to protest against the line of conduct which the prosecutors were pursuing against him.

Patrick Carey (the first witness on this Investigation), was again brought up from the hulk, and produced as witness.

The witness was reminded of the oath he had taken on his former examination, which was still binding on him.

Mr. TOWNSEND desired the witness to state any additional facts that occurred to his recollection.

Witness wishes to state, in addition to the circumstances related, that at one period he was employed here as a carpenter; and had some differences with those over him. There was a boy placed under his care to be instructed; his name was Tighe; attended as much as possible to the instruction

of the boy, and heard afterwards that the boy was prompted by Connor, the master carpenter, to provoke witness to quarrel with him, in order to make it appear that no one could agree with witness, his conduct being so bad; witness pointed out to Mr. Algeo some work which the boy had done, which was badly executed; Algeo told witness to take the work in general; on a Saturday was kept in his division to clean it; Connor came to the work-shop when witness was not there, as if to collect the tools as usual; Connor admitted that he did come there; this was last June two years. On Monday morning, when witness was looking over his tools, he found a brad-awl wanting; remarked this to Connor, and said if he was let collect his own tools he would be accountable for them; Connor gave him another awl and witness went to work; in the course of two days found a brad awl on the ground broken; the boy (Tighe) found the old one in the box; witness did not know what to do with it, fearing that Mr. Algeo would be angry at it being broken, and at Tighe's suggestion the broken brad awl was thrown into the fire; Mr. Algeo, who must have heard of this, asked witness in some days did he find the brad awl; witness at first denied having found it, but at length acknowledged that he had found it, and told him (Algeo) why he threw it into the fire; in the course of a few days, Connor sent over to witness some timber to make tools; not thinking the timber was good enough for the purpose, witness refused to work it up until he saw Mr. Algeo; in some days after that, witness, according to an order, was locked up for destroying part of the tools, and for not taking directions from the carpenter, and after being confined seven or eight days, was reduced to work as a labourer in the garden; the awl was the property of Government; after a month witness was reinstated; was not kept on bread and water for the seven or eight days that he was locked up, but he had no recreation at all, not the usual hour. In the course of a little time heard that Connor was persisting in prompting the boy against him; witness then applied to Mr. Algeo to give him paper on which to make a statement of the transaction; the governor did not come; the reason of witness remembering these particulars was, because he had time since his last examination to recollect things; thought when he was brought here to-day that he came to hear the decision of the Court upon his own peculiar case, and to be told whether he was to be banished, or to be redressed; whilst he was under examination on the last day, had an impression which he still retains, that hew as then on his trial, as he mentioned above; witness told Mr. Algeo of the treatment he was experiencing from Connor; witness wished to make the statement to the governor, because the governor did not come to inquire about the first transaction.

Witness was here told by the Court that no one wanted to hear his life and adventures—he was merely to state, was he treated with any cruelty by any person, and what it was.

After an uninteresting conversation of considerable length, be-

tween the Court and the prisoner, it did not appear that the witness had anything further to say.

To a question from Mr. O'Donovan—Never saw an iron helmet or keys on any person here, but has seen an iron helmet similar to the model produced, in Mr. Algeo's hand, since Mr. Rowan came here.

The witness expressed a hope if he were doomed to banishment, that, as there was a ship in the harbour, influence would be used with the Lord Lieutenant, to have him sent off to Botany Bay—his heart was broken.

The witness withdrew.

Mr. ROWAN here handed in to the Court a written protest, of which the following is a copy:—

MR. ROWAN'S PROTEST.

"I do hereby most respectfully, but, at the same time, most firmly, "protest against the course now taken in this Investigation by the "Commissioners appointed to inquire into the management of this "Penitentiary, touching the examination of any witnesses re- "specting charges of cruelty or severity of punishment, inasmuch as "I have not been supplied with any specification of the charges "about to be brought against me, either as to names, dates, cir- "cumstances, or places, to all of which I am advised by eminent "counsel, I am entitled by every rule of law, and every dictate of "equity. I moreover claim as a right, under the advice of the "same authority, that such charges being so specified, should bind "the party accusing, and the witnesses, in such a manner as that "they ought not to be allowed to wander or deviate from such in- "dictment or matter so charged, when they shall be called upon "to give testimony.

"HILL W. ROWAN,

"Richmond General Penitentiary,
"18th August, 1826."

William Kelly, a convict from the hulk, produced and sworn.

When the witness was brought in and about to be sworn, he was ordered to withdraw for a moment.

Mr. TOWNSEND, who had attentively read the protest of Mr. Rowan, said, that he thought right to express the opinion of himself and his brethren, as well as their wish, that Counsel should be heard at both sides.

Major PALMER said that the protest confirmed his wish to have Counsel, inasmuch as by the protest it would appear that the Court did not sufficiently protect Mr. Rowan.

Witness recalled, sworn and examined.—Came from the transport ship; was confined in the house for about eight months; came here the 25th August, 1825; has been nearly five months in the hulk, while here was treated cruelly and severely; witness had

two brothers here, prisoners, and he would not be allowed to see them; the governor one day came round and he asked witness had he any thing to say, and the witness, who came here along with his two brothers, complained that he was separated from them; the governor in reply to witness's complaint, said, he should see them; Somerville the keeper of the prison, reported some time after that, against some prisoners, of whom witness was one, for speaking to each other out of their wards; this was against rule; the governor told him of this rule, and nevertheless he continued to offend; witness was at this time eight weeks in the house; witness reported without effect on two occasions to see his brothers; it was chiefly because witness was not allowed to see his brothers, that he spoke through the ward door; the governor came round and punished two of the four persons reported against, but he forgave witness and another, because it was his first offence; witness then asked permission to see his brothers, but the governor refused; witness told governor that he did not care what would become of him, and he broke his loom next day; the next day the governor came to him and said that three years would not take him out of this, and he took him out of his room, locked him in the solitary ward, and put him for four weeks in the stocks and wooden handcuffs, and fed him for eighteen days on bread and water; witness broke every thing in the ward besides the loom, broke his iron bed; after the four weeks in the solitary ward, removed him for eighteen days to another solitary ward with a bed in it; there was no bed for the four weeks he was confined in the stocks, but the boards and a little straw; during twenty days of the four weeks witness had no bed, and it was when there was snow and bad weather, that witness told Algeo, that if he did not get a little straw, he would die; the witness got a pound of bread, which was not half enough, it was the doctor that changed his diet; while he was in the stocks, he got about an hour out of them every day, but during the hour, there were the wooden handcuffs put upon him; used not to be able to walk about from the cold of his feet; at the end of the latter confinement was restored to his division; for eight weeks after that there was no report sent in against him; at the end of that time, witness got leave to see his brothers, and the governor got him a loom, and gave him a piece; after being in the loom for about fourteen days, reported against the master weaver, who was not attentive enough in instructing him and fixing the threads, and said that he would weave no more; the governor ordered him the next day into solitary confinement for nine weeks; was confined in the place called the "Piggery;" was only kept on bread and water for one day during the time, but was in the wooden handcuffs for three weeks of the period; had a bed; after that was sent to the hulk; reported several times to the governor; was a Catholic when he came here; was asked on his coming here to declare his Religion, and declared he was a Roman Catholic; was sent into one of the wards on

Thursday, and on Sunday the governor came round and asked witness of what Religion he was; witness said a Catholic; the governor asked him which would he rather go to Church or to Mass; witness made him no answer; the governor asked him did he ever read the Testament; witness replied, that he did not; the governor asked him did he hear it read since he came here; witness answered that he did not; when the governor was going away he said to the keeper "know for me whether will this boy go to Church or to Mass;" when the governor went away, witness got out to walk in the yard, the keeper Haige was with him, and he told witness that he (Haige) was once going to turn to Mass, but that he thanked God, he had not done so; Haige then told witness to consider whether he would go to Mass or to Church; on Monday morning witness was removed from that division to another; the keeper of this other division (Somerville) also asked witness where he would go to, also adding, that he would gain no favor by going to Church? witness said he wanted no favor by it, that he would go whereever he thought was best; Somerville then told witness his brothers had gone to Church; and then witness said he would go to Church; witness did, accordingly go to Church, but he did not intend to stick to it; witness left off going to Church when he left this place.

Examined by Mr. O'Donovan.—Was about a week here before he went to Church; got, the first Friday when he arrived here, milk and potatoes for his dinner; thought he would be let to go to Mass on the Sunday he came here, without being asked any thing, but he was not permitted; witness has brothers here, their names are Nicholas Rooney and Patrick Carr; Carr is his own brother, and Rooney is his step-brother; witness gave in his mother's name when he entered into the prison; would have gone to Mass the first Sunday he came in if he was allowed; had no reason for changing to be a Protestant, only that by the inquiries that he saw the governor making, he presumed, that the governor gave the Protestants more liberty than Catholics; remained a Protestant while here, but did not get much favor by it; saw his brothers while he was here; never asked while here to go to Mass, but goes to Mass now; Carr and Rooney (his brothers) both went to Church here, as witness was told by Somerville; expressed no wish while here to see the Priest; was not told by any other officers that he would be favoured by going to Church; there was no more said to him on the subject of Religion, than he has mentioned; if witness was allowed to go to Mass the first Sunday, would indeed have stuck to it afterwards; did not make any inquiry about Mass, for he thought he would get it; does not read; did not express any sorrow while he was going to Church, nor does he know that he has since expressed sorrow; has seen the Priest every Sunday, since he went on board the hulk; there is a Protestant Clergyman too on board the hulk, but witness preferred to go to his own Religion; did not believe in the truth of the

Protestant Religion, which he belonged to here; never told any person here so; witness wished to go to Botany Bay.

Mr. ROWAN, on being asked by the Court if he would ask the witness any questions—declined, after the course he had determined on pursuing, he did not think he could, with justice to himself, interrogate the witness.

Witness ordered to withdraw.

When the witness was retiring, Mr. Rowan addressed him, and said he felt great pleasure in telling him that his brothers, who were in the prison, were well; and that they were extremely attentive and well conducted. He would also feel pleasure in communicating to them that he (witness) was well. The witness expressed his thankfulness for Mr. Rowan's attention, and then withdrew. The witness was immediately sent back to the convict hulk.

The COURT then adjourned.

Adjournment—Third Day—August 21.

Mr. Townsend stated that he had seen Mr. Goulburn on the subject of Mr. Dolan's proposition. Mr. Goulburn agreed with him (Mr. Townsend) that Counsel should not be allowed. With respect to the second proposition, the Lord Lieutenant would not permit a secret examination of the witnesses; but there was no objection to allowing Agents, as at courts martial, to attend, and to suggest by whispering to their clients.

Mr. Dolan inquired, if Agent would be allowed to address the Court, in person, on any point of difficulty that might arise, the witness under examination then retiring.

Mr. Townsend replied in the negative—Mr. Townsend alluded to a letter which he had received from Patrick Carey, confirming some evidence which he gave, and which Algeo contradicted. Mr. Townsend said, the view taken by Government of this Investigation, was the same as that which he entertained, that is, that the Commission was not of the nature of an ordinary Court of Justice, but in a greater degree resembling in its duties a Committee of the house of Commons. Although he and his brother Commissioners would not be restrained by any specification, such as that wished for by Mr. Rowan, still it was his and their opinion, that the prosecutors should specify the precise charges which they meant to bring against Mr. Rowan, or declare that there are no precise charges. If any thing material arose in the course of the Inquiry, not contained in the specification, the Court would not be restrained from investigating it; the party ought to do either one thing or the other.

Mr. Dolan (through Mr. O'Donovan)—Are we to understand that we are required to give names?

Mr. Townsend—Certainly.

Mr. Dolan (through Mr. O'Donovan)—That proposition we must decline; we can't give the names of any individuals upon whom cruelties have been committed; because, in the meantime, that is, between the giving of this specification, and the time of the witness being brought forward, Mr. Rowan would be enabled to exercise his influence over them, and if he pleased, might use his power to suppress the truth—he (Mr. Dolan) was merely putting a possible case.

Mr. Rowan here expressed his hope that the proceedings henceforward would be marked by good feeling and good temper.

Mr. Dolan concurred in the disposition evinced by Mr. Rowan, and said, that such had been his anxious wish since the commencement.

Mr. Rowan said, he would make another offer, and that was, that if the names of the persons to be brought forward to prefer

charges against him were given, he (Mr. Rowan) would pledge himself to have no communication whatsoever with them.

Mr. DOLAN (through Mr. O'Donovan) declared, that he could not at all agree to that—although he might not distrust the pledge which Mr. Rowan offered to give, as far as Mr. Rowan, personally was concerned; still there were others who were charged in these complaints, who might not be very scrupulous as to the means of suppressing evidence.

Major WOODWARD said, that in point of fact, all that was required was, that complainants should give all the information they could give, without prejudice to their own case.

Mr. TOWNSEND said, that Mr. Dolan need not give an answer till to-morrow.

John Barry (a convict from the hulk) sworn and examined.

Was a prisoner in this house; does not recollect the time he came here, but thinks it is a twelvemonth since; has been on board the hulk since he left this, 17 or 18 weeks; was about eight months here; is a Catholic; professed that Religion when he first came here; was a Roman Catholic when he first came here, and declared himself to be so; was asked the first day, when he came here, by Algeo, what religion he was of, and witness then said he was a Catholic; did not declare himself a Protestant at all, but Mr. Algeo was giving him great encouragement; went to Church all the time he was in the house; went to Church, although a Catholic, in this way; Mr. Algeo before a week after witness coming in, came to witness and asked his Religion witness said he was a Catholic; Algeo then said he would give witness a week to consider, and that at the week's end, he should tell him (Algeo); Mr. Algeo said that it was in the governor's power to give more indulgence to Protestants than to Catholics; does not recollect that Algeo said any thing more on the subject; witness told Mr. Algeo at the time, that he would go to Church; did go to Church after that, as long as he remained here; did not go to Church at all the first Sunday he came here; the conversation with Algeo was before the first Sunday; on the first Sunday the Catholics were going to Mass; witness rapped at the door of his cell, and said to the officer of the ward, (Mr. Bailey) "I want to go to Mass;" Mr. Bailey replied, that he (witness) could not go to Mass that Sunday; witness went to no place of worship that Sunday; the Saturday following the first Sunday, witness went to Church; mentioned to Mr. Higgin between two or three months after, that he wished to go to Mass; first told to the governor his wish to go to Mass; the governor said to Mr. Bailey who was present, where did this boy go when he first came here? Mr. Bailey said, he (witness) went to Church; witness made no observation on that. The governor then said, "he (witness) is young, let him continue going to Church;" witness then said to the governor, "your honor I would wish to go to

Mass, I do not wish to go to Church ;" the governor said, " go and pray, and when you are done praying, come to me, and then you may go as you please ;" up to this conversation with the governor, witness had gone to Church since Mr. Algeo had spoken to him ; Mr. Bailey, the officer, accompanied witness to Church the first day he went ; did not come to the governor after the time he told him (witness) to go to pray, &c. ; does not recollect having made any attempt after that to go to Mass ; when witness went from this to the hulk, he went to the Catholic Church, and never attended Protestant service there at all ; while here was put into solitary confinement, on account of some matter about weaving ; was in solitary confinement—was there for four days ; Mr. Algeo liberated witness, on Christmas day ; was in solitary confinement the second time at his own will ; witness could make no progress in weaving, and he told the governor so, and the governor then put him into solitary confinement, giving him an option if he pleased to leave the solitary confinement at any time, and return to the weaving ; witness remained that time for about a month in solitary confinement ; witness went back to the weaving in about a month ; was let out when he did so ; was not a week at the weaving that time ; the governor, on one occasion, came into the ward (during the week) where witness was ; when witness saw him, he was standing near the fire ; the governor asked Mr. Bailey how witness was going on ; Bailey replied, very poorly ; the governor asked the master weaver also ; he also replied, " very poorly, as usual ;" witness acknowledged he was no proficient in weaving, and that if he got the world for it, he would never make a good weaver ; the governor then said, that he would send the witness to the hulk the very first complaint he got of him ; witness asked him (governor) why he should send him to the hulk, when there was never a complaint for ill conduct against him ; the governor on hearing witness say this, ordered Bailey to put him in the stocks ; witness then was put into solitary confinement ; witness had on him a middling good pair of shoes which he tore off ; the shoes were furnished by the prison ; witness threw the shoes into the yard, having first torn the uppers, believes Mr. Bailey picked them up and brought them to Mr. Algeo.—(This examination was considered not exactly relevant, and was not pursued.)—Witness was kept in the solitary cell from that time until he was sent to the hulk : the solitary cell is called the " Piggery," and is a horrid place, not more than a couple of yards to walk about, and one is almost killed there for want of air ; witness got the prison allowance whilst there, and got also blankets and sheets there ; used sometimes to exercise himself when he was let out for an hour, in sweeping the yard ; witness was not, when he first came, more than an hour in the house when Algeo took away his prayer-book, and

said, he would give him another; witness thought Algeo was the governor, and witness said to him, "Your honor, please leave me my prayer-book." Witness was brought a Protestant prayer-book by Mr. Bailey, before he went to Church, aud after the first conversation with Algeo. When Algeo told him of the indulgence he he had it in his power to give him if he went to Church, witness made no objection to take the Protestant prayer-book, knowing there was no use in objecting; thought after Mr. Algeo's conversation with him about "indulgence," that there was no use in his objecting.

Cross-examined by Mr. Dolan through the Rev. Mr. O'Donovan—Told Mr. Higgin of his (witness's) wish to go to Mass; there was no one present at the time—[witness was proceeding to detail the conversation which occurred between him and Mr. Higgin, but in consequence of a proposition made by the Rev. Mr. Higgin to the Rev. Mr. O'Donovan, it was conceded at an early period of the Investigation, that no conversations of this kind should be detailed; the efforts of a clergyman to retain in his communion, by all fair means, being admitted to be quite legitimate.]

Mr. ROWAN appeared to think that the governor also might use a spiritual interference with regard to prisoners, he (Mr. Rowan) could see no difference in the cases.

Examination resumed—Has seen tracts in the house; has got a tract from Mr. Wood, the schoolmaster, about a Father Kelly.

Mr. TOWNSEND said, that it should be recollected that at this time the witness was a Protestant, and Wood was justified in giving him tracts of the kind.

Mr. DOLAN observed, that the meaning of the question was to shew that Wood had these works to circulate.

Examination resumed—Has seen quantities of these books in the day-room where the prisoners go to school; has seen no books of songs here. Mr. Algeo told witness that there was a Catholic Chaplain here, and also a Protestant Chaplain; witness knew that himself, because there is no prison without Caplains; witness told Mr. Bailey and the governor, and the governor himself recollects the time, that he came down to see witness, that he was a Catholic, before he (witness's) went to Church, and the governor then said to witness, that he (the governor) wished that every one would go to the same place as himself; witness did not at the time know where the governor went. To tell God's truth these expressions of the governor had a great effect upon his mind, although he (witness) was not sure where the governor went, but he suspected from what Algeo said to him, that the governor was a Protestant.—Witness (to Mr. Townsend) "Was not that reason enough, Sir?"

Mr. TOWNSEND—"Indeed it was; you have made some as fair conclusions as ever I heard."

Examination closed.

Mr. ROWAN merely inquired of the prisoner, did he not always wish to go to Botany Bay while he was here?

Witness said, that he certainly did express a wish to go to Botany Bay while he was in the piggery; and besides, there was an inducement to him to go there because he has a brother there. However, when the order came for his transportation, he cried, and he wished then to stay, as he had hopes of getting his liberty by a pardon some time or other here, and he also used now and then to see some one belonging to him.

Witness withdrew.

James Graham (a convict from the hulk) sworn and examined.

Was a prisoner in this house; was here for nine weeks; left this house on 12th April last; is a Roman Catholic; went to Church here; went to Church here in consequence of a communication which he had while in the Depot in Cork with a girl (Rose M'Carthy) who was an inmate of this place, and who told him there was no fair play at all for a Catholic here. Witness heard in Cork of this girl being once in the Penitentiary, and he wrote a bit of a note to her to inquire what sort of a prison this was; and the above was her answer. When witness came here, the officer, Mr. Somerville, on the night of arrival, inquired of what Religion he was? Witness told him he went to Church. Witness went to Church for a fortnight; was confined for the remainder of his time; witness did not wish to remain here from the character he heard of the place, and he tore the blanket, and struck one of the officers in order to be sent away; witness on account of that was put into stocks and handcuffed, and was put into the "piggery," for six weeks and five days; witness did not mention to any of the officers his wish to go to Mass, but he told it to one of the prisoners (Cornelius Callaghan) who told him not to go to Mass, as he would be punished for it. When witness told Mr. Somerville, that he was a Protestant, Somerville replied, that he was glad of that, as he could give him more indulgence on account of that. Mr. Somerville asked witness of what Religion the prisoners were who came along with witness, and witness said they were Catholics. Somerville replied, "that is no matter, every one goes to Church here, and they must go." Three prisoners came with witness; their names were Magrath, Johnson and Waters. Somerville said, that Herbert, Barry and Clarke, who came here Catholics from Cork, were made to go to Church; Somerville told witness, that when prisoners came here they were usually kept in the lock-up ward eighteen months, but that as he was a Protestant he would get out in two months.

Cross-examined by Mr. Dolan through Rev. Mr. O'Donovan— Can read, and has seen tracts circulated here; they used to be in the ward; Somerville gave witness two of them the very night he (witness) came in; Somerville gave them after he (witness) said he was a Protestant. Has seen a tract here (which was handed to witness for his inspection) "The difference between Protestantism and Popery," (marked [A.] in the appendix). Does not know that Catholics had access to those tracts; was either in a ward, or

locked up in solitary confinement while here. Has seen with Mr. Haige a small song book; they were all about Religion; went to Mass in the depot at Cork; goes to Mass now on board the hulk.

On his cross-examination yesterday, regarding the punishment which he suffered, during the solitary confinement, witness deposed that he was for twenty-four days on a pint of flummery, and eighteen days on a pound of bread; and for the forty-two days, he was never taken out of the stocks in which he was, but on one day when his leg was sore, and when the doctor came to see him. After three weeks he got an option of getting out of the stocks and putting himself into into handcuffs; was part of the time he was not able to go to the privy; there was a pot de chambre under the bed, which he used. He was for three weeks with both stocks and handcuffs on him; was never during that time allowed to go to the privy; and, in consequence, has on some occasions befouled his breeches. The occasion on which this occurred was when he hurt his leg, and when the doctor came he was stooping to reach the pot de chambre under his bed, and he fell and hurt himself.

Witness withdrew.

Charles Gray sworn and examined.

Is a prisoner here; will be here three years next September; is a Protestant, and has been so since his birth.

It appeared that the witness, whom it was intended to call, was John Grey.

The witness withdrew.

John Grey sworn and examined.

Is a prisoner here for more than twelve months; is a Protestant, has been always one, and so has his father been one. Was punished here; has not been punished here these eight months; deserved to be punished; was both in stocks and handcuffed for four days, and was handcuffed without being in stocks four days more. Was on another occasion for eight days in a solitary confinement. There never was a bit in his mouth, nor a mask put upon him.

Witness withdrew.

On the withdrawing of this witness, Mr. Rowan observed, that the evidence of this witness was a proof of the necessity of a specification.

Mr. Townsend remarked, that he really could not see how such irrelevancy could be avoided when the Agent had not free access to the prisoners.

Manus M'Laughlin sworn and examined.

Is one of the memorialists whose name is to the Memorial which caused this Inquiry; is one of the twelve who were discharged in April last; was here five years; was a Catholic, and is a Catholic; changed here to get peace and quietness; it is about six months since witness left off going to Church here; was about a year and a

was removed that same evening ; witness considered this act as ill treatment, but did not complain of it to any one, for he was afraid of complaining, lest he might be punished ; Ward used to be at witness, every night, endeavouring to convert him, and used to remain after the other prisoners were locked up, reading the Bible ; had candle light ; there was a rule in the prison against having candle-light, but he used to put his blankets to the window ; there was no third man in the cell. Ward then ceased arguing with witness ; witness continued in the cell with Ward ; thinks it was at Ward's suggestion that Algeo directed Bailey to remove witness from his own to Ward's room ; Ward told witness, against his wish, that he would speak to have him removed ; Bailey, in removing witness said, that he had Algeo's directions, and that Pat. Ward wished for him ; Ward again addressed prisoner on the former subject, and said to witness, that he (witness) would get no peace until he was reformed. Witness asked Ward what he meant by " reformed ;" witness did not know the meaning of the word ; Ward said he did not know the meaning of the word himself, but that he would bring him to Mr. Bailey, which he accordingly did. Bailey said, that " reformed" meant a change from bad to good, a change of Religion. Witness could get no peace between Ward and Bailey, and he often wished to be out of the class ; witness was continually annoyed for about the space of three months, and he was afraid to speak. Witness consulted with some of his fellow prisoners, as he did not know what to do, but to ask to see Mr. O'Donovan ; witness accordingly reported for Mr. O'Donovan, and was told that he was not at home. On the next morning witness reported again for Mr. O'Donovan, but was told he (Mr. O'Donovan) was on important business and could not come.

Witness ordered to withdraw.

Mr. ROWAN again repeated his offer of pledging himself to have no communication with the prisoners, if he got a specification.

Mr. DOLAN said, that he did not mean to distrust Mr, Rowan's pledge, as he was quite sure he would not violate it ; but there were so many persons under him that it was impossible to prevent their communication with the prisoners who were to be examined.

COURT adjourned.

Adjournment—Fourth Day—August 22.

Examination of Manus M'Laughlin resumed—Mr. O'Donovan came at last, and witness told him how he was treated, and he (Mr. O'Donovan) desired him to have patience, believes this was in the year 1823. Witness told him his patience was almost worn out; at first witness did not think there was any use in speaking to Mr. O'Donovan, as he (Mr. O'Donovan) was treated as badly as himself. Is sure Mr. O'Donovan was treated badly; instances the following as a proof:—Mr. Rowan gave orders to all the officers who had Catholics under their charge to go into the Chapel during service. One of these officers used to mock at Mr. O'Donovan, and laugh at him; the person who did this was Mr. Algeo; believes Mr. O'Donovan observed him on one occasion, as well as himself (witness); Mr. O'Donovan was in the pulpit at the time, and Mr. Algeo was in front of him, on the ground floor; one of the prisoners, who saw Mr. Algeo laughing, asked him why he did laugh? the apology Mr. Algeo made was, that he saw an old man of the name of Hyland stretching his hand under a woman's petticoat to reach his hat; this woman was a woman who was at liberty. This fact is an instance of "ill treatment," to Mr. O'Donovan; during the time of prayers, they used to be annoying Mr. O'Donovan with slapping to the doors; Mr. O'Donovan has spoken of that annoyance in witness's presence. Another instance was that the Chapel door was constantly left open; that is, one person would come in and open the door, and then shut it to; and then another person would come, and so on; thinks that the officers often went in and out for the purpose of annoying Mr. O'Donovan; never saw an officer go out with a prisoner only once, that was when witness fainted from cold in the Chapel. These are the only instances witness knows of ill treatment to Mr. O'Donovan; witness then took Mr. O'Donovan's advice to have patience, and then was continually annoyed as formerly: Thomas Bailey, the warder, used to come and provoke witness for the purpose of getting him punished; Bailey used to provoke and annoy him about his Religion; when Bailey was at witness for about a fortnight, witness sent for Mr. O'Donovan again; Mr. O'Donovan did not come to him for about a week after witness sent for him; there used to be always some apologies made by Mr. Bailey, for Mr. O'Donovan not coming; when Mr. O'Donovan came, witness understands that he did not come to witness by means of the report witness made for him, but by accident; Peter Capper told witness of this; does not know where Bailey is now; there were two persons of the name of Bailey in the house; the one witness means left this about a year and a half since; Mr. O'Donovan, on coming to witness, again advised him to have patience; when witness told Mr. O'Donovan how ill treated he (witness) was, Mr. O'Donov

said, " You see how they are getting on with myself;" witness told Mr. O'Donovan that it was out of his power to put up with the persecution he was getting; witness did not complain to any person else of this persecution, unless to his fellow prisoners; was afraid to complain; before the Inspectors came here, the governor used to go round and terrify the prisoners, for fear they would say anything when the Inspectors would come; that was the cause of witness not telling any one but Mr. O'Donovan what he was suffering; witness was still continually annoyed; when the governor used to come round the prison before the Inspectors came, he used to be getting on with very high talk; and unless a plain vulgar word which witness used to understand, witness could not understand him; the governor used to say that no one had any authority in this place but himself, and that he was all as one as God here; the governor used to say that the Institution was a world in itself, and that he alone had authority in it; does not recollect that he said anything more; but this was his manner of terrifying the people from making any complaints, and no prisoner in the place was more affected by this terror than witness himself; Bailey used to continue this annoyance. Pat. Ward, a prisoner, lately discharged from this, saw prisoner one evening very melancholy and in tears; Ward asked witness what ailed him; witness said, " Pat, you know what ails me as well as I do, you see what it is, and you know what it is for;" Ward told him that if he (witness) changed, as he (Ward) did, he (witness) would be treated as he was; witness said he would do any thing whilst he was in the place to get peace; thinks, although Ward himself was not a real Protestant, he would wish to make witness one; Ward said that all the governor wanted was to get " Reformations"—immediately then, witness and Ward went to Wood the schoolmaster of the place; witness and Ward told Mr. Wood that witness came to change his Religion, and Wood then sent for Mr. Higgin; thinks this was about three years ago; Mr. Higgin asked witness had he a mind to change his Religion, and witness said he had; Mr. Higgin asked witness was the governor acquainted with his determination, witness said he was not; Wood went to the governor about ten o'clock in the morning, the governor was in his own room; the governor said to witness that he was glad to see him going to reform, and then began to tell witness about the errors of the Roman Catholic Religion; witness agreed in every thing he said; the governor said that the Catholic Religion was worshipping beads and crucifixes, and holy water and saints; the governor then explained how vain it was for witness to go to Mass, where he would hear nothing but latin; the governor said a great deal more, but witness disremembers it; witness was then sent away to his division. Bailey shook hands with witness, and said he was glad he (witness) was become a young Protestant; Bailey then told witness that his persecution was over; "but," said he, " for fear any of the prisoners would notice, I will scold you now and then, but do not

take any heed of it;" witness went to Church from that time; witness found every indulgence possible after that, and even more indulgence than the rules could afford, for instance there was not tea and sugar allowed the prisoners; and Mr. Bailey used to give witness, mostly every morning, tea and sugar at his own (Bailey's) expense; Bailey used to be supplying witness with books ridiculing the Catholic Religion; Bailey thought witness a real Protestant in his heart; would know the tracts that Bailey gave him if he saw them again.

Mr. TOWNSEND here observed, that he did not know to what purpose the inquiry could tend; already it had been sufficiently proved that these books were in the prison, and it was not wrong of Bailey to give them to a person whom he supposed to be a Protestant.

Witness shewed those tracts to Catholic prisoners, not for the purpose of making Protestants of them, but in order that they might shew them to Mr. O'Donovan; witness gave them some of the books, and they kept them; they could not have come at those books if witness had not given them; those who pretended to be Protestants, used to be supplied with a great quantity of those books, pamphlets, histories, &c.; has heard often that these books were given to Mr. O'Donovan, whether Mr. O'Donovan got them or not, witness cannot say; the Catholics were only allowed their Testament and Catechism; the Catholics have to pay for every book; witness himself had to pay for them; after witness had become a Protestant, Ward was sent by Mr. Wood for his Catholic prayer book, which he had bought for 1s. 4d., and had it not long in use; witness got no money for it, nor did he ask, as he was afraid if he did, they would suspect him always; in witness's time, Mr. Wood used to explain the Scriptures to the Catholics; in those explanations he used to say some things against the Catholic Religion, and in the course of his instructions adduced texts of Scripture to assist his purposes.

Mr. DOLAN (through Mr. O'Donovan) here required a copy of the rules, or printed regulations which were promulgated in the prison, in Mr. Hollingsworth's time; one of these strictly interdicted Scriptural controversy, either between prisoners or between officers and prisoners.

Mr. TOWNSEND could not entertain that proposition, it was already discussed, and Mr. Rowan had said that the regulations alluded to, were not approved of by him, and that he had changed them.

Mr. O'DONOVAN said, he had a document in Mr. Hollingsworth's hand-writing, stating, that they were approved of by Government.

Examination resumed—Has seen an iron helmet here; has seen it in use; has seen it on John Walsh, who was since transported out of the Institution; heard Walsh suffered with it for singing Irish songs.

The witness here described the make of this instrument, and proved the one produced to be a model of the one used.

Witness did not see the instrument putting on, but saw it on him; it was buckled behind, he believes, but he cannot say whether it was locked or not, as Walsh's front was turned towards him; witness saw the blood coming out of his mouth; has seen the punishment of prisoners in Mr. Hollingsworth's time; no one could be punished unknown to prisoner at that time, because then there was no separation of prisoners, and it is witness's firm opinion that he (Hollingsworth) never used such a machine, and to the best of his belief he never had it in his possession; thinks Hollingsworth never had it in his possession.

Mr. ROWAN, in allusion to the weight of the machine, which he protested he then saw only for the second time; said he would, it was likely, bring Mr. Hollingsworth from Cork to prove the size and shape of it.

Mr. DOLAN said, that he would, if necessary, produce the maker of the instrument made after that brought from Kilmainham, who was also the maker of this model, and he would prove that the model was a fac simile.

Witness has not seen chains or keys or other things in any one's mouth, but has seen strait waistcoats, and jackets, and bolts.

Mr. ROWAN here observed, that a specification would have saved this kind of testimony, it was likely, as the use of gags would have been admitted, the fact had been investigated and adjudicated before now by the decision of the Lord Lieutenant.

Has seen the officers Somerville, Keppell, and Haige, strike Walsh when he had the helmet or muzzle on, and when he was incapable of resistance; has heard from the lower division, prisoners up stairs beaten, with mop handles, by the officers; Edward Clarke, Peter Bogue, and James Morris, were struck in this way; believes these three persons live in Belfast; John Connell hearing of the treatment of Walsh, said that it was a sin to use the boy as they were using him; Algeo reported Connell for that, and the governor came up and gave him a punishment of three months in the second class; Connell was at the time in the first class; the governor came up to the class on the occasion, and he asked Connell, "how he (Connell) said the like," meaning why he (Connell) said that it was "a sin to be at the boy as they were doing;" Connell said that he pitied him for the way in which he was used; that is all witness recollects of that affair. When witness was about to return to the Catholic Religion, he happened to tell his mind to Pat. Ward, and said that he would be no longer a Protestant than until he would get out; Ward went then and told Mr. Bailey this, and then witness was as badly off as ever; witness then did not know what to do; witness was constantly teased by Bailey as much as ever, and could get no rest; witness fell sick from vexation; witness was confined to his bed for ten days; witness was reporting to Mr. Bailey to see the doctor, but the doctor did not

come; witness had no nourishment, and could not use the prison allowance; the only nourishment witness had was the "drops of milk" which his fellow-prisoners collected from each other for him; witness's own allowance of milk was too little for him; the last two days of the ten days the doctor came.

Mr. ROWAN—"I think it right to say that the doctor or apothecary visits every one who reports himself sick, every morning."

The doctor ordered some nourishment for witness, some tea; he believes; witness was taken then into the hospital; witness was a month in the hospital, and he thought he was dying; witness then sent for Mr. O'Donovan, by Mr. M'Cloy, who was the warder of the hospital; Mr. M'Cloy told him that he had reported for Mr. O'Donovan, through Algeo; Mr. O'Donovan did not come until after witness had reported for him two or three times; witness does not recollect what happened then; witness returned to the first class, and having been there a month, reported two or three times, for Mr. O'Donovan, through Suter; Suter said witness should not see him (Mr. O'Donovan); witness was reduced to the third class for asking to see Mr. O'Donovan; Suter first said to witness that he (witness) should not see Mr. O'Donovan until he first saw the governor; witness replied, that it was not about the governor's affairs that he (witness) wanted to see Mr. O'Donovan, and therefore he would not see the governor; Suter went and reported this to Mr. Algeo, and when he came back he told witness that he got orders to confine witness to his ward; witness asked Suter what he had done? Suter said that he (witness) had disobeyed orders in not sending for the governor; witness was then confined; witness was confined for three days and three nights in his ward; this was in the first class; Mr. Higgin came to witness, and stopped with witness a considerable time, telling him of the errors of the Roman Catholic Religion; witness did not say anything to Mr. Higgin, and having stopped for a considerable time, he went out of the ward; in about ten minutes the governor came, and sent for witness; the prisoners were all arranged in the day-room; governor asked witness why he refused to send for him?—(Mr. Higgin was present)—The witness said to the governor that he had no want of him, neither would he send for him; the governor and Mr. Higgin asked witness to whom in the Institution would he appeal if he wanted anything, but to the governor? he told the governor that he wished to go back to the Catholic Religion? and the governor asked him what fault did he find with the Protestant Religion? the governor also said that he (witness) should not see Mr. O'Donovan; and he desired the keeper to take him back to his ward again; does not recollect anything else that the governor said; witness was in his ward-room some short time, until Mr. Suter, the warder of the division, came, and said he had an order to bring witness to the third class, where he was confined during very bad weather when there were frost and snow, and at the time there were two doors open on

witness; the yard-door was always open unless at night; had no work in that ward, and had a very bad pair of shoes; witness states these details to show what he suffered, and to prove what he would endure, after consideration, rather than change his Religion; when witness had been about three weeks in the third class, Mr. O'Donovan came to him; witness was reporting to Haige, the officer, every day, for Mr. O'Donovan, and Haige told witness that he forwarded those reports; when Mr. O'Donovan came, he did not come by the report; it was through the means of the cleaner of the division, who was friendly to witness for resolving to return to the Catholic Religion, and who sent for Mr. O'Donovan, that Mr. O'Donovan came; witness went to Mass every Sunday; the first Friday of the three that witness was going to Mass before Mr. O'Donovan came, there was soup sent to him; also it was sent on Saturday; it was the same way the week following; witness complained of that to the keeper, and the keeper said that Mr. Algeo would not allow him to get milk; the third Friday, witness got milk; Algeo came on the third Saturday evening, and asked witness why he was not along with the other prisoners, at prayer with Mr. Haige; Mr. Algeo said that witness was the last person he would expect to see in that class. Mr. Algeo called Mr. Haige, and asked why he did not let witness out to prayer with the rest? Haige said, he thought witness would not go, but that he would let him out the next evening. On that evening Haige came and let out the witness, and desired him to fall in with the rest. The "Prayer" was in Mr. Haige's room, and they used to be reading the Bible there, and witness told Haige he would not go, and in reply to Haige, witness said, he had a good book himself of his own to read. This was a Catholic book, which one of the Belfast boys gave him, since he would not get his own; Haige told witness that he (witness) had every thing but what was good. Haige then desired witness in a very harsh manner to go into his ward, and to stop there, and then closed the door; witness, during the whole time, did not give him a saucy word. Mr. O'Donovan came then, and witness told him all that had occurred; Mr. O'Donovan desired witness to have patience; witness said that he would bear with every thing that came to cross him, until he got his liberty. Witness was in that class for three months, all but two days; witness was removed from that to the second class; was in the second class three months, and was treated almost as badly by Thomas Flanagan in the second class, as he was in the third; witness was not so familiar with the names of the warders when he was a prisoner, as he is now; would be punished if he was. At the end of the three months witness went to the first class, and remained there until he was discharged, the 24th April; witness was to be discharged on the 23d, and was met on that day by Mr. Algeo, who said to witness, that he was not worthy to be discharged; witness said that he (Algeo) kept him as long as he could, and that the Lord Lieutenant had pardoned him.

To a question by Mr. Townsend—The pardon is procured by the recommendation of the governor.

Resumed—Algeo said, that they could keep him longer; witness said they could not—Algeo then said, "Well, we'll see that; take him to his division, Mr. Suter;" and witness was taken back. Witness heard from some persons, not from the officers, that his name was on the list of persons to be discharged. Thinks the pardon, or the liberation from the Lord Lieutenant, was the greatest favour he could receive; does not count it a favour to remove him from the second ward to the first; thinks he (witness) deserved it; he got out of this by the governor's recommendation.

Mr. TOWNSEND—With all those favours which you admit, how do you blame the governor? You were promoted to the first class; you were allowed to go to Mass, and you were discharged. If the governor had such an enmity to the Roman Catholics, how did he confer on you these favours?

Witness—It was my good conduct here, and he saw that he could not compel me. In the second class there was not one in it that was not punished but myself, and it was only justice to remove me—it was only justice to my good conduct to recommend me to be pardoned.

Mr. TOWNSEND—Well then, you admit that you received justice.

Witness earned money here, which he got when leaving; did not get as much, however, as he was entitled to; witness did not get the last quarter's earnings; but he got £8 leaving this, which might be what was due to him; witness was calculating what was due to him, on a tin vessel, and by doing so he scratched the painting of the vessel, and there was a deduction made from his wages for this; he believes that there was 2s. 4d. stopped for this; witness put into the store, since Mr. Rowan came, some clothes which he had when he came here, and out of these there were two handkerchiefs stopped; the handkerchiefs were not long in use; they cost, one of them 1s. and the other cost 1s. 3d; witness did not get a proper suit of clothes on leaving this to which he was entitled; the clothes were too little, they were boy's clothes; witness got £8, and he claims 2s. 8d. more, besides the amount of the handkerchiefs; the memorial now shown is one which he authorised to be signed in his name.

Mr. ROWAN—Why, you yesterday swore that you signed this.

Witness—I signed a copy of it.

Witness proved having seen all the individuals whose names are to the memorial, sign the memorial; all but Peter Bogue signed their names in this manner, each man held the top of the pen which Mr. Battersby held in his hand.

Witness withdrew.

Before the introduction of any other witnesses, Mr. ROWAN wished to know whether any specification of charges would be given. To this Mr. Dolan handed in the following written answer.

"SPECIFICATION.

"Application of the helmet—keys and gags in the mouth—"handcuffs and bolts on the feet, and chains communicating from "the handcuffs to the bolts on the ancle—handcuffs behind their "backs, and in such a manner as to require the assistance of "other prisoners in easing nature, prisoners put in the piggery "and cage, for many successive days and nights—exposed to the "night air in winter—strait waistcoats."

Mr. ROWAN, at considerable length, argued to show that the "specification" alluded to, did not at all amount to any thing like a declaration of what charges were to be brought forward. It was most certainly disingenuous of the persons who were prosecuting the Inquiry, to withhold the names, dates, and places of the charges made. It was either disingenuous of them, or they did not know upon what grounds they had proceeded, and were fishing for facts in the examination of witnesses, as they appeared—a great deal of the matter charged in the Memorial was adjudicated.

Mr. TOWNSEND desired Mr. Rowan, whenever a fact, on which the adjudication of the Government had been obtained before, was adverted to, to stop the course of the examination, and to make the objection.

Mr. ROWAN said, amongst other facts already adjudicated, was the "gagging." Already the Lord Lieutenant had investigated that occurrence, with regard to Walsh, of which he (Mr. Rowan) had some indistinct recollection, and decided upon it.

Major WOODWARD repeated an opinion expressed by him at an early period of the proceedings, that the investigation of the Lord Lieutenant upon "gagging," was merely upon the question of propriety under any circumstances, of using a "gag"; probably in the manner of using that, or in the instrument itself, as to its formation, there might be matter for present Inquiry.

A long conversation took place, during which Mr. Rowan strongly protested against the conduct of the prosecution in withholding the specification alluded to. Mr. Rowan said, it was unreasonable and unfair to him, personally, as well as unjust to him as a public officer.

Mr. TOWNSEND said, that the Court, however they might wish to accede to Mr. Rowan's wishes, had no mode of forcing the opposite party to give the specification required, unless the Commission was stopped.

Mr. ROWAN continued to protest strongly against the proceeding.

Mr. William Greene, sworn and examined.

Was an officer in the prison, but is not now; was a messenger first to the governor, and then became a warder; left this the 5th

July last; left the place from his own choice; became a messenger in December, 1823 or 24; does not know what time he became a warder; whilst here he never knew of any severity being used to produce changes of Religion; has known practices here which he considered to be cruelties.—(The helmet is produced to witness)—Has seen such a helmet here as the one now produced, (witness describes the manner of using it); the first time witness saw it used, it was not, witness believes, locked, but the staple was fastened with a stick; has seen it used more than once; has seen it used on a person named John Walsh, and to the best of his recollection it was used on Jeremiah Coghlan; is certain he saw it used twice; cannot swear to the person who put it on; is certain that the rough iron put into the mouth is not more rough than the iron of the original one; knows that, because the instrument when first brought here, was tried on himself by Mr. Algeo; was appointed here a messenger since Mr. Algeo came, but was in the prison before a prisoner came to it, for his grand mother was appointed matron; witness, since that time, has lived in the Institution since his first coming here, until he left it in July last; his grand mother is still here; to the best of his belief, a helmet was brought here after he was appointed messenger, but he cannot swear positively; thinks the instrument at that time was rather too big for his mouth, for he was then young; cannot say how long each time the helmet, when used, was on the persons; thinks he was only looking at the person each time while the helmet was putting on; to the best of his recollection, each of those persons struggled against the putting on of the helmet; cannot swear positively to that; can swear that they did not let it willingly on them; the first time the helmet was put on, witness thinks it was more for the purpose of example to the rest of the prisoners, than any other purpose. Mr. Algeo suggested that the individual should be brought round to the other prisoners to show them the instrument; thinks, but is not sure, that it was first tried on Walsh; thinks, but is not able to discover any man's motive, that, on the second time, it was used for punishment; witness cannot say who ordered the helmet to be put on, or by whom it was put on; cannot say, positively, but thinks—indeed, on recollection, he is sure, the second person on whom it was put, was Jeremiah Coghlan; witness was twenty years of age the 20th of this month; when this instrument was put on witness, it did not hurt him, it was not on him for more than five minutes; has seen chains, keys, and iron handles or latches of doors, used here frequently since he was appointed a messenger; has seen John Barron, Charles Grey, and a prisoner of the name of John Monaghan; cannot tell how long those instruments were in their mouths; witness saw those things because he was a messenger, he was confined to no particular place, and went where he pleased;

these occurrences took place in the corridor ; witness used either get a key to go in, or would accompany any one that was going in ; has gone with Mr. Algeo ; has seen Algeo apply all the instruments of punishment last mentioned ; swears positively that he has seen him apply them all.

It being now three o'clock, the COURT adjourned.

Mr. GREENE said, that he was in a merchant's ware-house, and that it was extremely inconvenient to him to leave his business.

The COURT expressed a hope, that as it was for the purpose of Justice, he would endeavour to attend, and that immediately on the sitting of the Court, his examination would be proceeded in.

Adjournment—Fifth Day—August 23.

Examination of William Greene, resumed.

Has seen, as the effect of these cruelties which he witnessed, blood streaming down from the mouths of prisoners, who resisted the putting of keys in their mouths; has seen this in the instance of John Monaghan, and a man named Duffy; if the person submitted quietly to this system of punishment, witness does not think blood would have streamed; the keys used for this purpose were old keys; when the keys and such things were drawn tight back on the prisoners, they must have given pain, and in these instances they were drawn tight back; does not think the Helmet would have given pain to any one who would submit quietly to wear it; thinks it would annoy greatly; has seen a pistol fired once into some of the solitary cells, thinks it was for the purpose of subduing a refractory prisoner; did not see the mark of a pistol ball, after the shot, in the wall; nor did he look for it; thinks it was more for the purpose of frightening, than for the purpose of destruction; the prisoner in question could have done no harm, although he was refractory; John Bulbridge was the man at whom the shot was fired, he was generally unruly.

Cross-examined by the Court.—the gag could not prevent a man from assisting himself if there were necessities of nature to come; but has seen prisoners locked up for the night, in such a state, so chained and handcuffed that they could not perform the offices of nature; means, they were so locked up that they could not of themselves, assist themselves, but there was an order that an officer should visit every hour of the night, prisoners in confinement; in the interim the officer was not within call; the officer visited prisoners in confinement every hour, because he visited all parts of the prison every hour; cannot recollect the particular time when these things occurred, but it must have been when he was an officer, and used to be on the night watch; could have seen them when he was messenger, but could not see them at night; could have seen them at night about one half of the time he was a messenger, for then he used to do duty on the night watch; Mr. Rowan appointed witness a messenger; does not know any instance of any one who had a call of nature and was unable to assist himself, but has heard of an instance in the case of Patrick Carey. There is an officer now in the house (Mr. Hume) who mentioned this circumstance to witness; does not know how long the gags have been left on a man; witness has seen the gag put on, and then has gone away, and probably did not come for two or three days, and when he did come, he never saw them; a prisoner of the name of Graham was in solitary confinement for a month; does not know how long he might have been chained, but when he was put in, he was

chained and handcuffed; saw him again during that month, but cannot now say whether, when he saw him he was handcuffed or not; witness, when officer of the watch, had frequent occasions to visit the prisoners in close confinement, but could not of himself relieve a prisoner so as to allow him to ease himself; there was a direct order that no officer should enter the cell of a prisoner at night, alone, lest an attempt should be made upon him; witness notwithstanding the order, has frequently gone in; what witness would do in such a case was this, he would go to Mr. Algeo and report, who would direct accordingly; if Mr. Algeo were not in the house, and that sometimes happened, for he might be out for the evening; witness would let the prisoner remain as he was, or he might go to the governor and tell him; does not think it ever so happened that both Mr. Rowan and Algeo were at the same time absent from the house; in these cases, although there was a chamber utensil in their cell, they could not use it; Patrick Carey was not allowed a blanket when in this custody; those who were guilty of very great crimes, were kept upon bread and water, unless the doctor reported that it was necessary to give them better food; does not think a pound of bread sufficient allowance for a man; is, and always has been a Protestant; has seen a tract with a Protestant prisoner, but has no reason to think it was introduced for the purpose of circulating it amongst the Catholics; cannot specify more than one; does not know of that tract having come into the hands of a Catholic, but for any thing witness knows to the contrary, it may have come into a Catholic's hands, the tract alluded to was "Ouseley's Defence of the Old Religion," meaning by "old," the Protestant Religion; has seen this book in the hands of Bernard Moran; witness has seen John Walsh handcuffed and fettered, and his hands chained behind his back, and the chains locked behind his back, pinioned; could not state the length of time he was in that state, nor does he know the offence for which it was done; dares say he knew at the time, though he does not now remember it; Walsh was confined in an arched place, a place where he could not lay down lengthways, but crossways in it.

Mr. Rowan observed, that the place could be measured, and its length ascertained.

Mr. O'Donovan begged to say, that the "Cage" could not be measured, as it was taken down since he (Mr. O'D.) saw it there once, and he saw the place since where it was, but is not now. The cage was in the rope walk, it was an open arch in the wall, in the front of which there was a wall built up, and a door and grating in it.

Examination resumed.—Walsh was confined there at least three days; Dr. Todd saw him there; witness heard Dr. Todd say, that he wondered how his constitution could bear it; does not know whether the doctor reported that to the governor; it was discharging his duty which obliged him to visit persons in solitary

confinement, that made him go visit this man; he saw him by these means; has seen Carey in a kind of wooden stocks which bound his arms to, and kept his arms asunder—about a foot and a half asunder; has known these stocks to be on for a night; has seen no other person but Walsh in the "cage;" thinks, when Walsh was there it was the winter half of the year, about January; witness no covering at all on Carey but straw, for the first night in the cage; he certainly had nothing that night but straw, afterwards he may have had more; knows the place called the "piggery;" it is a place for the refractory prisoners; in a damp season it is wet—in a dry season it is dry enough; there are four of these piggeries, they are in the outer yards.

Mr. HIGGIN, in explanation of the name, said, that they were called piggeries, from Mr. Hollingsworth having kept pigs there.

Witness never heard of the cause of their being called "piggery;" these piggeries were not arched over, but they were covered sufficiently to keep out the wet; they were really solitary cells; has seen prisoners confined there; has seen them confined there in all seasons of the year; the season made no difference; there are no other solitary cells in the prison; the prisoners confined in them were kept there day and night; some of the prisoners had straw and others the regular bed of the prison; the covering of some was a rug or something of the kind, and others had their regular complement of covering, sheets and blankets, &c.; does not recollect any to have been in the piggeries without a blanket; has known Doctor Orpen to write a note to Mr. Rowan, saying that William Kelly's health was beginning to suffer from confinement in this place, and Mr. Rowan wrote an order on the doctor's note to Mr. Algeo to put the prisoner on his regular allowance. Now, there is a regular visiting of the prisoners in confinement, and there has been that system for more than a year; before that witness did not know of any regulation to make the medical officer visit; witness's grandmother was originally matron of the Institution, but she is now assistant-matron to Miss Freeman, the matron of the Institution; she ceased to be matron about the time that witness was made messenger; she has never executed the duties of matron since Mr. Rowan came here; she has now apartments and a salary; she was obliged to consent to the arrangement that made her assistant-matron; witness resigned on July 5th; the immediate cause of witness's resignation was, that he got another employment, and the remote cause was, witness considering that Mr. Rowan dealt harshly with him; witness was acquainted with the institution of this Inquiry before he resigned; when witness left this, the appointment he got was that of clerk to Mr. M'Kinley the merchant; thinks that employment is as good as the one he had here; the salary is not so good, but considering how unkindly he was treated here, witness thinks it is as good as his situation here. Has seen Carey in solitary confinement; these in the third class are confined all day but half an hour, unless they want to go to the privy;

the second class have the liberty of their own division during the day, or whatever work shop they work in ; it is upon these that "close" confinement, or confinement to their own wards, is usually inflicted ; the first class is similar to the second, with this distinction, that a prisoner cannot expect his release until he gets into the first class—he is discharged from that class ; when witness saw Carey in solitary confinement, he had no covering but straw, he requested witness to ask for a blanket, and also to cover his feet with straw ; witness did ask Algeo, who said the covering was good enough for him, but that he would ask the governor for it ; witness does not know whether he afterwards got it or not ; when Carey asked witness to cover his feet with straw, he said his feet were numbed with cold ; Carey himself was incapable of covering them at this time, Carey was sitting in the stocks, and his hands were handcuffed, so that he was incapable of assisting himself ; does not know what Carey was punished for ; this was in the cold season, there might have been snow or ice, but witness does not remember ; there is no window in those Piggeries, but there are square holes cut in the door ; these apertures open immediately to the air ; the apertures are about two inches square ; has not known any inconvenience from bad weather, resulting from these holes, that is, that rain or snow has gone in through them ; knows all the officers whom he left in the prison ; does not know any of those who may have since been introduced ; there is one Roman Catholic officer amongst them, all the rest of them are Protestants ; the apothecary is a Roman Catholic ; of the females, there is a Catholic warder ; one servant, (the hall maid) is a Roman Catholic ; there is no prison servant, at the male side, a Catholic ; the name of the Catholic officer at the female side, is Catherine Farrell : she was one of those appointed at the forming of the Penitentiary ; does not know who appoints the apothecary ; never knew, during his residence in the house, of any means being used to make converts ; has known many persons to become Protestants on coming here, and believes that their conversion was from any thing but conviction ; does not think the conversions were sincere ; never formed any opinion why so many became converts.

To a question by Mr. Townsend—Believed that the helmet was first put on Walsh, not for the purpose of punishment, but of frightening others.

Cross-examined by Mr. Rowan—There were others present when the helmet was put on the second person ; but does not recollect who they were ; but it was Mr. Algeo generally applied those punishments. Swears, to the best of his belief, the helmet was first put on Walsh, and next on Coghlan. His grandmother was the first matron appointed here ; witness lived with her ; thinks such a thing as the helmet might have been brought here without her knowledge ; it might have been brought for the use of the females, and she not know it, for she was acting as assistant matron, from the time Mr. Rowan came, and

had no authority; his grandmother never acted, to witness's knowledge, as assistant matron, before Mr. Rowan's appointment. Cannot answer that the helmet might have been introduced without his grandmother's knowledge, while she was acting, before Mr. Rowan came, as matron; witness has not sworn that the helmet was introduced here by Mr. Rowan; was appointed messenger here by Mr. Rowan; his grandmother lost her situation about the time that witness was appointed messenger; and at the same time witness was told, by Mr. Rowan, that he was appointed messenger as a kind of remuneration for the loss of £10 a year, which she suffered by being reduced to assistant matron; believes she felt resentment at this, and witness himself felt resentment at it.

Mr. ROWAN—"Why, was she reduced?"

Witness—"You know best."

Resumed—Never heard his grandmother say she felt resentment; she cannot write; she has had charge of a division here called the Nursery. Knows who wrote her reports at first for her; witness wrote them at first; witness was in her confidence; witness applied personally to be appointed messenger; witness made the application, and solicited to be appointed; Mr. Rowan said he would speak to Mr. Gregory about it; witness was subsequently appointed a kitchen warder; Mr. Rowan appointed witness to that situation, of course; witness does not know that an appointment of this kind is altogether optional with the governor; thinks the appointment is made at the Castle; has, on many occasions, given a great deal of advice with regard to his conduct, and his duties as an officer of this establishment; does not know whether he has or has not expressed much gratitude for the advice when witness was appointed to the kitchen as a warder; Mr. Rowan did say, that he scarcely felt himself justified in appointing so young a man, but that he would expect from him all that he would expect from a man; is aware that many and many reports have been made against him by the officers, by one person in particular. Many of these reports were for insolence, and some of them were made for observations about the governor. Witness never said that he could hold his place in spite of the governor, or that if the governor dismissed him he would be re-instated. Has opened the doors of solitary cells, although it was against orders; his general motive for doing so, was to see how the prisoners were. With regard to Carey, he knew him well before he was put into solitary confinement, and he was sorry to see him there, and he wished to see him; might have gone into the cell at night and not by day, and thus disobeyed the order by bringing the sentry off his post; the sentry once left his post for witness; could have gone in and fulfilled his duty by calling the officer who was next for extra duty, the officer for second watch, the same night. There was an officer of the second watch to whom witness could at all times have access, whose duty it was to assist the officer of the first watch when necessary. Has heard that this Investigation was to take place before witness left the Esta-

blishment; heard it about ten days or a fortnight, more or less, before he left this; heard it as a rumour; did not hear of any memorial before that time. Recollects a circumstance of imputed neglect of duty before he left this; refused to go for Doctor Orpen; was unable to go for him from fatigue, as he (witness) mentioned in the written statement; was first officer for extra duty that night; recollects the time Mr. M'Cloy was dismissed, witness was was as culpable as he; M'Cloy and witness were called at four or five o'clock in the morning, by the officer of the watch, to re-light lamps which had burned out in their rooms; recollects that it was imputed to him that he had fire in his room, which he had orders to put out; believes there was no written order, but there was an understood one, that fire in the officers' rooms should be out at ten o'clock. Had an orderly book, but read it very little; if there were a written order could not say but he had read it, for he had read them all, but there were so many that he could not recollect them. Has complained of having too little to do, and asked for more from the governor. On the day, however, when he complained of fatigue, he had been doing another man's duty along with his own; recollects shortly before leaving this, Algeo having a conversation with witness about an order that was written by the governor; recollects that Mr. Algeo told him that order was suspended, in order to save the witness's feelings, and that he did not issue the order, as witness was leaving the house; has, along with every other person there, assisted in applying the gags; was obliged to assist; it was generally understood that to refuse to do it was a neglect of duty that might cause a dismissal; has never remonstrated to any one having the power to abolish the gagging, of the injury the gaggings were doing; may have spoken to some one confidentially about them, because he never approved of them, and may have expressed his feelings about them; thinks it more than probable that he did express his feelings on this subject, in the way he mentions; never, to his knowledge, expressed in any way or shape, to the governor, his feelings on the subject, or to Mr. Algeo, for he never considered him a person fit to speak to on that subject; cannot say that he has mentioned the subject to Mr. Higgin; believes Mr. Higgin to be a very humane man, but would not request him to mention his view of the matter to the governor; if he did express it to Mr. Higgin, he did not request him to communicate what he thought to the governor; thinks he may have mentioned, or that he may not have mentioned to Mr. O'Donovan; does not recollect the circumstance of his mentioning it to Mr. O'Donovan; recollects having struck John Bulbridge, a prisoner in this house; Bulbridge was so often outrageous that witness cannot say on what particular occasion he struck him; cannot recollect having struck any other prisoner; is not sure that he has struck, or has not struck any other prisoner, who had handcuffs on; does not recollect having any conversation with any person about coming here; witness was told by some person that Algeo

had said, "so Greene is coming here to give testimony against the governor?" witness replied to the person in question, "no I am not coming to give testimony against the governor; if he can ask me any questions in his favour, I will answer them, but I am afraid for his own sake he cannot." Was not taxed with ingratitude by the person that made the observation to him (witness); is sure he never said that he had plenty to swear against the governor, but he said that he could say enough about him, and so he could, for he (witness) had been longer here than any one else.

Mr. ROWAN here requested the witness to retire for a short time.

Witness withdrew.

Mr. ROWAN wished to know of the Court whether he might produce negative testimony to disprove the fact of undue means to proselytise here, if he could shew that there were causes, and that the proselytism was a necessary consequence of want of care, or attention, or misconduct, of any other person, would he not be justified?

Mr. TOWNSEND said, that Mr. Rowan has clearly a right of the kind alluded to, it was in evidence that out of the one hundred and forty-two Catholics in the Penitentiary, one hundred and three have changed their Religion. It was for Mr. Rowan to disprove that testimony by such evidence as he pleased to adduce.

Witness called in.

Examination resumed—Witness has stated that he has formed no opinion with respect to the causes that induced the numerous changes in the house; has observed that the Scriptures are read for the Protestant prisoners; and that, generally speaking, a good deal of care and attention is bestowed upon them; as for any very particular moral or religious instruction being bestowed upon them, witness knows nothing of it, more than reading the Scriptures for one, and seeing one of the officers praying with his prisoners in the day; has not the least doubt but a great deal of pains was taken by the Protestant Chaplain here in giving the Protestant prisoners moral and religious instruction, and has seen one officer, and believes it to be the usual custom of the officers, generally, praying with his prisoners; is aware that there is a schoolmaster in the prison; Mr. Wood has been in the habit of attending witness's division, when he was a warder; believes that he exerted himself to instruct the persons under his care; has frequently seen Mr. Higgin come up to witness's division during school hour and instructing them; has not seen Mr. O'Donovan attend the school on any occasion since witness came; has never seen or known Mr. O'Donovan to ask any individual in this house to read to him any book; has known Mr. O'Donovan to come to the day-room to visit prisoners; when Mr. O'Donovan has done so, witness, for an evident reason, retired, and therefore cannot say what religious instruction he gave them; has, on those occasions, generally left any books he was reading about the room; did not leave them to be

circulated amongst Catholics, but had them for his own amusement or instruction; has never known Mr. O'Donovan give what he would call literary instruction to any person in this house; has never known Mr. O'Donovan make any inquiry of prisoners as to their advancement in literary instruction; has never perceived Mr. O'Donovan shew any solicitude on that subject. It never struck witness that the changes may have been made by want of that instruction; has never made any observation to any person of Mr. O'Donovan's unsuitableness for his office; never made any observation to the effect of disqualifying Mr. O'Donovan from his office, but has heard an observation of Mr. Algeo, once, that he believed or suspected that Mr. O'Donovan was tipsy.

To a question from Mr. O'Donovan—Has never seen Mr. O'Donovan tipsy.

Examination resumed—Has never, to his knowledge, said, that Mr. O'Donovan was disqualified by any circumstance from instructing in this house; to the best of his recollection no one of the prisoners ever made to witness any observation of that tendency.

Witness was here ordered by the Court to withdraw.

The COURT here intimated to Mr. Rowan that, if he asked witness any question which did not relate to the subject of the trial, he (Mr. Rowan) was not at liberty to call any witness to contradict the answer.

Witness ordered in.

Cross-examination resumed—To the best of witness's recollection, neither in the month of December, or at any other time did any prisoner make any observations about Mr. O'Donovan being disqualified. Does not recollect at any time any light or jesting conversation between any of the male prisoners and Mr. O'Donovan, about the women. Swears he does not recollect any occurrence of the kind.

Cross-examined by Mr. O'Donovan, through the Court—Has never seen Mr. O'Donovan incapacitated in any way from doing his duty, and had as many opportunities of seeing Mr. O'Donovan as any person in the building; has heard Mr. O'Donovan give religious instruction in the Chapel; has heard him give the celebration of the ceremony of the Mass, and also the sermon. Believes Mr. Rowan to be a member of the Committee of the Kildare-street Society.

Witness withdrew.

Mr. DOLAN said, that before the Court adjourned, he wished to say, that a witness whose testimony was very material to the Prosecution, had been told by the Rev. Mr. Higgin, through his wife, that this Court had no power of compelling witnesses to attend; and that this intimation (although Mr. Higgin may not have intended that such a result would happen) has had the effect of keeping the witness back.

Mr. HIGGIN expressed his regret that an answer which he had made to the wife of Mr. Keppell (the individual alluded to) should

have had such an effect. Mr. Keppell was in the Asylum, to which he (Mr. Higgin) was secretary, and it was thus the conversation occurred. Mr. Higgin further said, that as his words were supposed to have operated in the manner stated, he would use every means in his power to induce him to come forward.

Mr. TOWNSEND said, if Mr. Keppell held any situation in the Asylum, it would not be difficult to make him come forward.

Mr. ROWAN again adverted to the specification he had required; and, after some preliminary observations, in reference to the refusal of the Prosecution to afford the required specification, handed in the following protest:—

"*Wednesday, 23d August.*

"Upon referring to the minutes of the proceedings, on Friday, "the 18th instant, respecting the specification of charges required "by Mr. Rowan, under the direction of Counsel, it appears the "Commissioners repeatedly stated their opinion, that the Prose- "cutors were bound, in justice and candour, to supply Mr. Rowan "with all the information they possessed on the subject, concern- "ing the nature of the charges they mean to bring forward; and "it appears further from the minutes taken on Monday, the 21st "instant, that the Commissioners had, during the adjournment, "given the matter further consideration, for the purpose of forming "a more mature decision thereon, as on that day they most dis- "tinctly reiterated their former opinion; and stated, moreover, that "the Prosecutors should either give to Mr. Rowan, all the in- "formation in their power, or declare they had no charges to bring "forward; leaving them only to the following morning to consider "their answer. Mr. Rowan, therefore, relying on the reasonable- "ness of his demand, as well as the consistency of the Court, most "respectfully requires from the Commissioners that they will en- "force that line of proceeding to which he submits he is entitled "by every rule of law, and to which they have repeatedly declared "he is entitled in reason and in equity. Mr. Rowan submits that "the Commissioners sit either as a court of law, a court of equity, "or a court partaking of the nature of both: if as a court of law, "his right to the required specification is unquestionable; in equity, "it has been declared by the Commissioners that he is equally en- "titled to it; and he contends, that in either and in both cases, he "is entitled, on any question implying a doubt, to have that doubt "decided in his favour, both as an accused individual, and as a "public officer against whom vexatious and harassing proceedings "have been instituted. Mr Rowan further requests that the Com- "missioners will, if they feel any doubt respecting the accuracy "of the minutes of the proceedings, examine the reporters on "oath, respecting the correctness of their notes.

Mr. TOWNSEND handed this document to the Crown Solicitor to be entered; at same time saying that it should not be understood that the Court concurred in its statement.

The COURT adjourned.

Adjournment—Sixth Day—August 24.

Mr. HIGGIN said, he called on Mr. and Mrs. Keppel, and that they promised they would attend here when called upon; he produced a note from them, in which they said that what Mr. Higgin had told them. he had only said in answering a question, and that they were sure he had not the slightest intention of suppressing their testimony or inducing them to do so.

Mr. TOWNSEND said, We have consulted respecting the representation on paper, given in yesterday, at our rising, by Mr. Rowan; my opinion has not changed from what it was at the beginning. —We consider that in the paper given in by the Prosecution as a specification, the information is not such as is required; but whether the Prosecutors have power to render it better, we know not, nor have we any way to compel its being given in, as we think it ought; nor any power but that of stopping the Inquiry altogether. We resemble, in our functions, a Committee of the House of Commons, and we are to inquire into the subject, and report our opinions, not as judges deciding between adverse parties, but for the information of the Lord Lieutenant, who has appointed us; and the rule, in its strictness, seems to be particularly inapplicable to a case where the party who is required to specify his charges, has not access to the prisoners, whom he intends to examine. We, therefore, can only say, we think that Mr. O'Donovan ought to give Mr. Rowan as much information on the charges he intends to bring forward as is in his power; if that be not sufficiently done, and that, from anything appearing after, Mr. Rowan should have occasion farther to cross-examine any witness, we will permit him to do so; and as to the matter of his defence, if there shall appear, in any instance, any inconvenience from want of notice, it will be our duty to to take care, as far as we can, that he shall not suffer by it; but we think we cannot stop the Inquiry on this ground.

Mr. ROWAN—I have already suffered from the want of it, having omitted what I should not, if I had time for my cross-examination; I should have asked the witness who was here yesterday, whom you bid to describe the instruments and effects of them on the prisoners, whether he does not know that they had taken them off, all of them, themselves, and whether he did not himself assist in searching for them in the straw.

Mr. TOWNSEND—Why, this may by proved be another witness.

Mr. ROWAN—That witness, you will recollect, said he would not come again, and though the fact may be proved otherwise, you may well appreciate the value of proving a fact of that kind, through the very witness who makes it necessary, in order to prevent an impression on your minds.

Mr. TOWNSEND—Every information we received, is liable to be affected or altered by subsequent evidence.

Mr. ROWAN—I am aware of that; but I feel it most important that, in competent witnesses, and I have drawn a line of distinction, and have not asked any questions which—

Mr. TOWNSEND—I assure you, Mr. Rowan, that nothing could be better than your cross-examination; and it showed how very little you require the assistance of Counsel or Agent.

Mr. DOLAN made application that the order book, to which frequent reference was made in the course of the trial, should be produced.

Major WOODWARD wished to know, whether the application was for an orderly book, or an order book An orderly book, if it were of the same nature as a military orderly book, merely contained directions of a temporary kind, and arising out of contingencies.

Mr. DOLAN replied, that the book which was required, was the book in which Mr. Rowan entered his Rules and Regulations for the Government of the prison. The book, at an early stage of the proceedings, had been produced in evidence.

Mr. ROWAN denied that the book had been produced in evidence.

Mr. DOLAN said, that the book was most certainly before the Court, and as a fact he would state, that the number of the last Rule entered in it was 212.

Mr. TOWNSEND did not think he could force Mr. Rowan to produce the book.

Mr. ROWAN said that he was not at all bound to show excessive candour to the opposite party, or to give their ingenuity an opportunity of seeking out fresh matter for charges against him; he (Mr. Rowan) would have no objection to show every one of the orders to the Court, but as before remarked he did not fell himself called upon to show them to his opponents.

Mr. DOLAN contended that the prosecutor had a right to the production of the book. It might be the case that an order was contained in that book that bore out the charge of the means, used to proselytize the Catholics, or bore out the charges of cruelty, besides the document belonged to the public and not to Mr. Rowan; suppose the case of an order to the schoolmaster, found in the book, that directed him to instruct Catholics in the Scriptures, and expound the Bible to them.

Mr. TOWNSEND thought, that if the prosecutors required the production of a single order, they were entitled to it, but it did not at all follow, that they were entitled to see every thing else in that book, however, the subject required some consideration—it was certainly a very serious matter to require Mr. Rowan to bring evidence against himself, it was also a serious thing to exhibit the book to one not belonging to the prison. He (Mr. Townsend) felt great difficulty on the subject; supposing that it were the case, that acts of cruelty could be proved to be the acts of the governor—would they call upon him to convict himself?

Mr. DOLAN, most certainly—the documentary proofs belong to the public.

Mr. TOWNSEND thought, that he (Mr. Townsend) would be entitled to call for the book, but he would not wish to read it, unless he could read it aloud—Mr. Townsend said he would consider the subject, and he wished that Mr. Dolan would be prepared in the morning to tell him precisely what book required.

Mr. DOLAN assented—Mr. Dolan said, there was a person named Capner in waiting, to be examined as to the charge of cruelty, as connected with proselytism, and he (Mr. Dolan) wished to produce him now, to examine him on the abstract charges of cruelty.

Mr. TOWNSEND said, under the circumstances, he would agree to his being produced.

Mr. ROWAN said, before the witness was produced he would make an objection to him, since his last examination here, Capper had been heard to say, that he (Capper) would burn in hell to be revenged on the governor.

Mr. TOWNSEND replied, that the fact would be very material if proved, and that Mr. Rowan could examine him (Capper) to it.

Mr. DOLAN (to Mr. Townsend) of course, sir, you will not enter that on your notes nor pay the least attention to it, until it is proved.

Mr. TOWNSEND—Certainly not.

Peter Capper sworn and examined.

Has lived since he was here before, at the house of a woman of the name of Mrs. Arthur; she keeps lodgings, and witness has lived there as a boarder; is allowed the money which supports him, by the bishop; when he was here had cause of complaint, for the treatment he received.

Has seen Walsh the second (there are two Walshes) with the muzzle on, in Mr. Somerville's division; Walsh clambered up to the window, where every one could see him; witness was in the yard, and he saw him. Mr. Keppell and Mr. Coombs then said, "Walsh." Only saw Walsh once; witness saw him only on the one occasion, that is on the one muzzling; he saw him at breakfast time, at dinner time, and the next morning, at breakfast time; at each time he had the muzzle on; for anything witness knows the muzzle may have been taken off at night; this was about twelve months last spring; witness does not mean to say, that when he himself saw him at breakfast and dinner time, he saw him at his own (witness's) breakfast and dinner time; does not know what this punishment was inflicted for; Walsh was on the ground-floor in the lock-up class; Walsh was transported from the prison; Walsh was confined to his cell, and in it when he had this muzzle on; witness could see him through the window, not the window of the corridor side, but the window that looked into the back yard. When Walsh had this instrument on, witness saw him standing on the window-stool, and also saw him sitting on the window-stool—(witness here described the make of the muzzle, and said that the bit which en-

tered the mouth, was like a blacksmith's rasp, and could not be hidden by the lips)—Has seen Walsh in the "cage," in the rope-walk; witness knew him to be in the cage every day for a fort-night; witness means all this imprisonment was one confinement; he did not see him at night, for he was not allowed to be out at night, but he saw him every day of the time, but Sunday; witness was then working in the garden, and used to see him in his passing to the garden; witness has seen Duffy bolted and handcuffed, and his mouth all cut, and scabs on it; the sides of the lips were all torn and split; witness cannot swear positively how that happened, but he has heard from the prisoners a cause assigned for the state of his face; Duffy was then after breaking his own windows designedly; he was chained and handcuffed; a chain came up from his legs to the iron handcuffs that were on him; Duffy was sent away. Witness had a chain round his arm at the time he was fettered, and handcuffed, that is, he was pinioned. This happened last July three years; Mr. Rowan was the governor then; could not assist himself in the offices of nature while he was so chained; there is generally an officer within call; witness once wanted assistance, but was ashamed to call for it for that purpose, and not getting it, befouled his breeches; called two or three times, and no one came to take off his handcuffs; after calling the third time, the turnkey came, but he came too late. There was an order that time in the prison that no prisoner should be let out to the privy more than twice; it was for breaking windows that witness was punished the time now alluded to; he reported for Mr. O'Donovan, and when he did not come, the report not being sent to him, witness and his fellow-prisoners broke their windows. When witness saw the Mr. O'Donovan, he told witness he got no report from him. There were two attempts made to escape; witness was only in one of them; the second attempt was made after the time witness broke his windows, but witness had no concern in it, more than knowing that the escape was meditated. Three weeks after the first attempt to escape, witness broke his windows, and in about a week after that the second attempt to escape was made. The money, which he says he gets from the Bishop, he gets from Father O'Donovan; has heard that he gets it from the Bishop; supposes it is to support him in town, until this Investigation is over, that he receives money; he gets 7s. a week.

Witness withdrew.

Mr. James M'Clean sworn and examined.

Has been an officer in this house; is not now an officer; is a Protestant; ceased to be an officer on the 5th July, 1825; was dismissed, and he thinks very unfairly, and very unjustly, as ever man

was treated. When here did not know any means used to induce people to change their Religion, but from the observations made to him by some prisoners themselves ; has learned, that for the sake of getting out of the long confinement, and getting into the air, they became Protestants; there used to be prayers every day in the Church, and not in the Chapel, and that gave them, who went to Church, an opportunity of walking. The prisoners who told witness of the above, were chiefly in Mr. M'Cloy's class; that was a lock-up class; witness had no opportunity of knowing the sentiments of the prisoners of the first or second class ; witness was master manufacturer here ; witness is quite unacquainted with any fact regarding Proselytism, more than he has stated ; witness never made any distinction between those in his care ; he wished they were all good Protestants or good Christians ; all the other trades taught in the prison were considered by the prisoners better than weaving ; the prisoners wished to be tailors, or carpenters, or shoemakers, rather than weavers; could not say that either Protestants, or Catholics, in particular, were put to those trades ; has seen prisoners here treated with cruelty, as far as his feelings could judge, but generally they deserved it ; there were different punishments inflicted upon them; thinks John Walsh was treated cruelly ; John Walsh was " John Walsh" the second; does not recollect the precise time this occurred; was coming down the corridor and heard some noise behind him, and looked back ; Walsh was coming down handcuffed, and had iron handcuffs on, and, as well as witness recollects, there was a chain from the chains to the handcuffs ; Walsh was desired in the corridor by one of the two officers, to carry a certain utensil ; Walsh said he would not ; there was a scuffle ; Algeo struck him severely ; the two officers then forced him on into his cell. Saw Algeo strike Walsh three times ; witness then went into the stores. Walsh at first on being desired to carry the pot de chambre, said, he could not, from the way he was bound up, and on being struck, he said, he *would not.* Is sure Algeo's hand was closed ; witness thinks there were several blows, although he cannot say whether Walsh staggered or not ; Mr. Somerville was the other officer ; really cannot tell whether this occurrred in summer or winter, but that can be found by reference to the time when Walsh was in Mr. Somerville's division ; thought at the time the occurrence was extraordinary, and thinks he mentioned it to Mr. Murphy and Mr. Hume, officers ; Mr. Hume is now here. Does not know that this transaction came at all to the governor's knowledge ; cannot say that he recollects patricularly any other punishment—on the occasion of the prisoners breaking their cells, they were punished very severely, but they certainly get on in a frightful way, and they deserved severe punishment ; does not think that any punishment could be too severe for their conduct at that time ; has seen Duffy punished several times ; thinks he was punished only once very severely ; Duffy was gagged ; he was at first gagged with a jack-chain, such a chain as turns the spit ; witness saw the chains on Duffy in the

evening, and witness did not go away 'till late that night; believes the chains were left on him at night; there were four prisoners all chained in that way; Duffy was a very bad character, and was one of those who broke the prison at the time; the prison was in great confusion; witness did not see the prisoners next morning, therefore cannot say whether the gags were left on, but witness heard that there were keys put in their mouths. The prisoners were put into solitary confinement the next morning, and witness did not see them until they came out; as well as witness recollects, during the time the gags were on, two of the individuals bled very freely from the mouth; cannot say that their mouths would bleed if they made no resistance to putting them on, but still if they were put on very tight, or if they endeavoured to get them off their mouths, they might bleed; witness cannot positively state the cause of the bleeding. Duffy and Monaghan were two of the individuals, and to the best of witness's recollection, Charles Grey and John Barron were the two others; thinks Duffy and Barron were the two that bled; Duffy bled a great deal, and Barron bled a little. Has frequently seen prisoners handcuffed and pinioned at the same time; cannot remember any particular individual that he saw in this state; has seen frequently religious tracts distributed through the place; has seen them in the wards and sitting rooms; thinks he has seen them in two cases in the private ward, but believes the prisoners were at the time going to Church; witness looked at them on the occasion; would know them if he saw them, but otherwise could not recollect them; one of them, he believes, was an explanation of the Protestant Catechism, which he considered very good for instruction; has seen hymn books in the prison; has seen a number of song books in the prison, but cannot tell where he saw them. The songs were what is termed "Loyal Songs;" never read much of them, and cannot say that there was anything of religion in them; would know the book now if he saw it, for there was a mark on it; a picture of King William on horseback—(the witness proves to the book produced, as being a copy of the work which he has seen—The book is entitled "The Protetant, or True Blue"—marked [K] see appendix.) Does not know where he saw it in the prison; remembers a shot being fired into one of the out-cells in the piggery, in which was a prisoner named Bulbridge; does not know that the pistol was loaded with ball; thinks it was not loaded with ball, but even as it was, witness was afraid from the shortness of the distance, that Algeo might hurt the prisoner with the powder or the wadding, and witness desired him not to fire it; the prisoner at the same time was throwing out stones wickedly, one of which hit witness; witness was hit before the shot was fired; there were several stones thrown; Mr. Algeo went to fetch the pistol after the thing began.

Mr. DOLAN wished very much to ask the witness, as he had expressed a strong sense of injury, if he would, in consequence of that strong feeling, do any thing resentful to Mr. Rowan.

Mr. TOWNSEND over-ruled the question. He did not see any thing to lead to an opinion that the testimony was given with a bad feeling.

Cross-examined by Mr. Rowan—He said and thinks he was badly treated here; the only cause that was assigned for the dismissal of witness was this—he asked for an assistant, and Mr. Rowan said that he would get a person who would do the business without an assistant; thinks there was a great deal of cruelty pursued to him in throwing him on the world without a just cause; has resentment in some measure to Mr. Rowan, because he ought to have done him more justice; but witness thinks he was misrepresented to Mr. Rowan by interested persons; Mr. Rowan had to get two persons in his place; was never warned by Mr. Rowan that from the manner he (witness) was doing his duty there should be another person got in his place; does not recollect that Mr. Rowan ever cautioned him as to his mode of doing his duty in such a way as would amount to a warning; cannot say that Mr. Rowan has repeatedly told witness that he should be dismissed—in fact witness had very little to do with the governor; he was constantly referred to Mr. Algeo for orders, and thinks that it is to Algeo he has principally to attribute his injuries; Algeo at that time was no more than overseer; does not recollect that he ever told Mr. Rowan he would wish to resign his situation, but he has said that he could not serve under Mr. Algeo if he were to have so much control over him; has complained to Mr. Rowan of Algeo's tyranny, and at the same time the governor went up stairs and said he would not listen to him; that morning witness had been fined 5s. by a report of Mr. Algeo to the governor; has seen the reports, and wherever there was a fine, there was always a reason given in the orderly book; there was an order by the governor against smoking, and the witness was fined for smoking; the witness had at other times complained of his treatment here; his principal objection was being under Mr. Algeo; whilst under Mr. Rowan he was very comfortable and very happy; never had a quarrel with Mr. Algeo; was by no means on bad terms with Algeo, the time of the scene with Bulbridge; everything Algeo did against witness was done in secret; has been told, but only with respect to the management of the weaving, that he was not bound to obey Mr. Algeo; cannot tell who the officer was that told him not to obey Mr. Algeo; has struck a man himself in the prison but not when he was chained.

Mr. ROWAN, said that he did not mean to censure him for that (striking a prisoner); the witness he (Mr Rowan) was willing to say was always active and ready, at any personal risque, to put down violence or insubordination; no man in the prison was more active than the witness.

Examination resumed—Does not think it was unnecessary violence to force a prisoner into the cell; witness himself has cut the chains used for gagging, in the store, by direction of Mr. Algeo; the chains were cut for that particular purpose; these men, of whom witness spoke, were gagged at the time of a desperate mutiny

they were ungagged when they were suppressed ; when the gags were removed they began to shout and make a noise and they were gagged again ; the chain was near at hand at the time ; it was an old chain and was cut ; the second time they were gagged it was with large keys, tied with cording ; witness did not see them on while they were on ; believes they were put on in the solitary cells ; does not recollect who proposed the chain ; does not remember who went for the chain, but believes it was Mr. M'Cloy ; the chain was brought before the governor's arrival ; the governor came into the cell ; Duffy was pinioned and chained ; some of the prisoners got the chain out of their mouths by rubbing their mouths against the wall as they were pinioned ; thinks he heard the governor desire that the prisoners should not be hurt unnecessarily ; after witness left the establishment witness has represented to Mr. Rowan the state of distress into which he was thrown : he had no other situation then, and applied to Mr. Rowan for a recommendation as to his character ; Mr. Rowan said that persons like him need not give written characters, but that if any gentleman would take the trouble of coming and asking him about witness, he would say what he could in his favor ; Mr. Rowan lent witness money at that time, but at that time witness intended, and had expressed his intention of, prosecuting some claim for stoppages here ; Mr. Rowan said that he heard that witness meant to apply at the Castle about these arrears ; witness said at all events he would do nothing without consulting Mr. Rowan ; Mr. Rowan then said he would rather give him some money than be annoyed about it ; Mr. Rowan did give the money to witness ; witness passed his note for it, and the note has not since been paid ; Mr. Rowan asked witness could he pay the money in three months ? witness said he could not sooner than six ; Mr. Rowan then desired him to draw the note at three months and leave the payment to himself (Mr. Rowan) ; witness said he thought the employment he expected would enable him to pay it in six months.

Has been frequently in the officers' rooms when the classes were at school ; has frequently seen Mr. Higgin in the school-room ; was in another prison besides this ; was in the Richmond Bridewell, and the governor of that, not only wrote a recommendation, as good as ever a man had out of it, but rode about to different places to serve witness ; has seen a great deal of pains taken to instruct prisoners here in moral and religious instruction ; never has had any recourse where Mr. O'Donovan gave religious instruction, because Mr. O'Donovan always went in private ; has never seen Mr. O'Donovan attend the school-room, or take any part in their instruction ; has frequently heard Mr. O'Donovan admonish and advise prisoners here when they were unruly ; has frequently had conversations latterly about this Inquiry ; witness thought the individual complaints of the officers dismissed would be heard here ; first heard of this Inquiry after it had commenced, about three or four weeks ago ; does not know of any particular

communication; the first person who told witness of this, was Gavigan who had been examined here; was at Mr. Dolan's (the law agent's office) yesterday evening; Mr. Dolan was there; there were four or five there; William Green, Mr. M'Cloy, and believes Mr. O'Donovan came in; there was some talk of the proceedings here yesterday; but Mr. Dolan desired that witness should hear nothing of them, as he was to be examined as a witness, it would not be proper; by Mr. Dolan's advice witness went out; witness did not see the minutes of the proceedings; did not tell any persons that it was said to witness, that "he (witness) was told that it would not be right to tell him what had occurred, but that he might see the proceedings"; witness did not read the proceedings; did not read a page of them or any of them; William Green who was present, began to read them, they were laying on the table, but Mr. Dolan stopped the reading of them; witness stopped at Mr. Dolan's a very short time; cannot swear that he did or did not mention to any person of his having read the proceedings; heard it said that Green's testimony was clear and to the point; does not recollect that he told any person yesterday, that he (witness) had been ever told to recollect when he came to give testimony here, what treatment he suffered in this house; to the best of his opinion he asked Mr. Dolan's advice as to his claims, and getting redress for him, and what he should say on the subject to the Commissioners; has heard it mentioned that the matter was sure to go against the governor, and Mr. Algeo, particularly against Mr. Algeo, and that in such an event, he (witness) might get his situation again, if justice were done; thinks Mr. Dolan said, that if things were as witness stated, and that there was no fault against him (witness) he (witness) would have a claim to be reinstated; Green and M'Cloy were present yesterday, when it was said that the thing would go against the governor and Mr. Algeo; the conversation with Mr. Dolan about his claims, occurred the first time he went to Mr. Dolan, of whom he then knew nothing; the conversation about the governor took place yesterday.

Here a long and uninteresting argument took place as to the meaning of the words used. Mr. Rowan relying on the witness's evidence, that he had a direct interest in deposing against him.

To a question from Mr. Rowan—Has had a hope that, from the investigation of this matter before the Inspectors General, and when his perfect innocence should be made manifest, he would have a chance of being reinstated here, or getting a situation elsewhere, although the governor and Mr. Algeo retained their situations in the Penitentiary.

Mr. ROWAN relied on this answer to be conclusive as to the interested motives in the deponent, which he had previously attempted to demonstrate.

Witness here expressed his regret that his circumstances did not enable him to appear before the Commissioners in a proper state,

with regard to apparel, but is sure he asked no one, if nothing could be done to put him in a proper state to come before them. Has asked a question equivalent to the foregoing ; he asked for the loan of a small sum of money for a fortnight or three weeks ; asked Mr. O'Donovan—(witness said he answered that question, although it was on a reference to his private affairs)—had no particular reason for asking Mr. O'Donovan ; there was no one present besides themselves, when he asked him for this accommodation ; believes Mr. O'Donovan replied, that he had not means, or that he could not conveniently do it ; that is the answer as near as witness can guess ; does not recollect any other reason being given by Mr. O'Donovan ; is sure that Mr. O'Donovan did not say, " It would not be right to give it to you now." Thinks Mr. O'Donovan said that it was as good for witness to go as he was before the Commissioners ; witness, before that observation of Mr. O'Donovan, said to him that the sum he asked as a loan was 30s. or £2 ; does not think that the words in which Mr. O'Donovan replied to his request were, " I do not see how I can well do that," but he might have said it ; it is now three weeks since ; was never told by Mr. O'Donovan that there was a fund to carry on this business ; does not recollect that witness was told there would be an application made to any fund, but witness heard from others that there would be some kind of remuneration given for the loss of time by coming and attending here. No one has told witness where that song book produced here to-day, was got ; witness understood from Mr. O'Donovan that that book was supposed to come from the big kitchen ; Mr. O'Donovan did not tell why he supposed it, but he said that he supposed it was William Green brought it into the kitchen.

To a question from Mr. Rowan—Witness understood that the song book produced here, was only a book of the same kind, the same edition as the one used in the prison ; on his oath has not got any money, or promise of money, or other consideration, or benefit, or promise in any way, for coming here to give evidence. Witness asked Mr. O'Donovan if there were much delay, and loss of time, would there be any remuneration—Mr. O'Donovan plumply said, that after all was over, it might be considered, and an application might be made.

Witness withdrew.

COURT adjourned.

Adjournment—Seventh Day—August 25.

To a question from the COURT.—Mr. Dolan said he would not then press for the production of the Order Book.

Mr. George Keppel, sworn and examined.

Was an officer in this prison; ceased to be so 5th July, 1825; resigned his situation; witness was partly ill treated, and partly incapable of performing his duty, and these were the causes of witness's resigning; previous illness has made him incapable of keeping the night watch, the "ill treatment" that partly operated to cause witness's resignation, was a report being made of his being able to perform his duties as an officer, when he was utterly unable, and declared to be so by the doctor; these causes operated to cause his resignation; witness when he left this, considered himself ill treated, but all feelings of that kind have left his breast these twelve months back, and he comes here now as an evidence perfectly free from feelings of resentment; has felt feelings of resentment towards Major Palmer, because he was in charge of the prison at the time that witness suffered the ill treatment, and witness attributed his ill treatment to the head, and not to the inferior officers; thinks Major Palmer acted under false reports given to him by Mr. Algeo, and acted so without questioning him (witness) as to the truth; probably, Mr. Algeo may have thought he acted right; witness felt no resentment to Mr. Algeo, even at leaving this house, as a Christian he could not; a man may look into transactions by which he has been a sufferer, without feeling resentment towards the agent; witness has frequently met Mr. Algeo, since the period alluded to, and has shaken hands with him as an acquaintance; witness is a Protestant; has not been always so; was a Protestant before he came into this house; to the best of his recollection, when here, he knew not of any means being used to induce Catholics to become Protestants: is aware that at the time when he left this Institution there were many professed Protestants who were Catholics coming in here; considers that the dissemination of the word of God, the Bible was one cause, and that conversations were another; witness has himself frequently had conversations with the prisoners, after reading a chapter of the Bible, not however with any direct intention of proselytising them, and has often told them, if they expressed a wish to become Protestants, that they should be "*confidentially convicted*" within themselves of the truth of what they wished to do; witness believes that every officer acted as he did; is aware that many of those persons became Catholics; indeed they were not sincere Protestants; thinks their going back to the Catholic Church was owing to irritation of mind; means by "irritation of mind," that state of mind produced by their being in the third

division of the third class; it was in that class that they generally became Protestants, and in that class, also, that they generally went back again to the Catholic Religion; witness is sure that if he were reminded, he could tell of instances in the first and second classes; witness has known instances of prisoners changing a third time; persons in the third division who were punished for their faults, became converts from irritation; it was under their punishment that they became converts; means that it was those who became Protestants, and who having done something contrary to the rules, were ordered to be punished and then reported for the Catholic Chaplain. Witness was here asked, did they do this, thinking to fret the governor? he would much rather not give his opinion at all on any such matter.

Mr. TOWNSEND said, that it was necessary in some cases, to ask the opinion of those persons; for instance such respectable gentlemen as the witness, who had been in the prison, and had experience to warrant them in giving an opinion.

Witness said he would much rather depose to matter of fact.

Witness thinks, from every circumstance, that they were not sincere converts, and that they had some motive in becoming Protestants at first; witness, in this class, was in the habit of reading the Scriptures, and having read a passage, he would say, "such and such is my opinion of its meaning, but I do not wish you to be biassed;" never gave controversial explanations on any subjects but those he would consider religious, in the general acceptation of the word, there was nothing binding on the prisoners to listen to this; every boy was desired to read a portion of the chapter, and if any thing striking were in it, the explanation would be given; when people first came into this Institution, witness believes there was no certain time for inquiring into, or their declaring their Religion, it all depended upon circumstances; the object of that inquiry, witness supposes, was for the purpose of taking them on the ensuing Sunday, to their different places of worship; there has been Protestant service every day, generally; if a prisoner came on Monday, does not think the prisoner would be allowed to go to Protestant worship on Tuesday, that is the day after, unless Mr. Higgin came to visit him; does not think a prisoner would be allowed to go into the interior of the establishment, until he declared his Religion; in certain cases the Religion of the prisoners, on coming in, has been consulted, in giving them their food on Friday, and in some cases, if a man declared himself a Protestant, he got Protestant diet, if a Catholic, he got the provision for a Catholic; if the man did not declare his Religion, and that it was doubtful, witness sent provision for both.

To a question by the Court—Witness is not disposed to give the name of cruelties to any punishments inflicted here upon prisoners, to make them the better observe the rules; would rather answer particular questions; witness has seen gags used; has seen a key in the mouth; has seen the handle of a door; has seen an helmet

used; witness thinks the iron handle of the door more severe because the perforated plates of the handle, when they came round, might hurt the cheek; does not know the fact; whatever his own impression may be of one of those handles being left on for the night, cannot state the fact, because it did not occur to any prisoner in witness's charge; does not recollect that any officer ever told witness that he had kept it on for the night; that punishment was inflicted for shouting, and thinks it was never inflicted for any other purpose; never knew an instance of a person being gagged, who, on being ordered, stopped shouting. Thinks the business of the Penitentiary could not go on properly if men were at liberty to shout when they pleased; to the best of his recollection witness never knew of the gag being kept on a prisoner after he intimated submission; in every instrument that was used to prevent shouting, except the helmet, prisoners could shout; and witness thinks that was the reason the helmet was got; a man with a helmet on could give no indication of submission, for he could not speak, his tongue was kept down by it. Witness has never put the helmet on a prisoner; witness can say that he has seen the helmet used once, and to the best of his recollection has seen it used twice; witness has seen it on Jeremiah Coghlan; believes Coghlan had it on for shouting; Coghlan had broken all his windows; he was acting in an outrageous manner, and was standing at the window shouting to his fellow-prisoners; witness saw the prisoner with the helmet on when he was passing the window; thinks Somerville was in charge of that division; thinks the second prisoner on whom the helmet was put was John Walsh (the second); the helmet was put on him for the same offence. The characters of both these men were very bad. Witness has put the helmet on himself as an experiment, and he could not shout; witness put the helmet on his head, but he did not clasp it on; witness thinks the frame of the helmet, if it were put on properly, would not hurt the man. Prisoners have, in many instances, felt uneasy at being long in confinement, and then, without any provocation, they committed violence, broke their windows, and shouted. The helmet did not hurt witness's mouth when he put it on; witness did not feel inconvenience from the weight of it on his head; it appeared to him like a small bundle on his head, which, although one might set out at first without much inconvenience, would become very inconvenient at last—(the model of the helmet was here produced)—Thinks the helmet was a little larger than the one produced; that is, a little higher and wider, but of about the same weight; witness cannot swear that there was a lock on the helmet, because the back of the head was not towards the witness—(here the helmet was sent out to be weighed.)

Mr. Rowan observed, that he was as anxious to be informed about this helmet as any one else; that he was quite ignorant of such a thing, as he had never seen it but once before; he had no doubt he would prove that the helmet used was not half the weight of the one now produced.

Major WOODWARD went to weigh the instrument, and on his return, stated, that it weighed one pound, thirteen ounces, and three quarters, without the padlock.

Witness was not here in Mr. Hollingsworth's time ; witness was here when the helmet was got; witness never saw it in this establishment until it was about to be put in use ; saw it then in this office ; saw it here two or three days before it was used on Walsh and Coghlan ; that was the first time witness saw it, but does not recollect the fact of it having been bespoke or ordered, at any particular time ; it is possible that the helmet might have been in the house, and kept locked up by the governor, without witness knowing it ; witness had seen the helmet two or three days before it was put on Walsh and Coghlan ; these persons were shouting while the officers were going to put it on them ; Walsh and Coghlan had commenced their tumult when witness first saw the helmet for two or three days here, and the other experiments to subdue them had been tried ; is not certain that the helmet had not been produced until after the other experiments had been tried, but it had been said, that if these experiments had not the desired effect, the helmet would be tried on them ; believes, at the time this was said, there were two or three persons present ; witness made the observation as well as any one else.

Witness, on being asked did he think the punishment then too severe for the cause of it, said, that he would much rather not give his own opinion at all on the matter ; he did not know how far the practice of this prison was sanctioned by the Government, and he did not know but when he gave an opinion he might be censuring the conduct of the Government towards the prison.

Recollects only of those present, one, and that was Mr. Algeo ; has never had any directions to prevent Mr. O'Donovan, access to a Catholic prisoner, unless he was under strict confinement ; there was a general rule, and there was no exception, unless in favor of the medical doctor ; witness has not conveyed to Mr. O'Donovan the wishes of prisoners to see him unless they have regularly reported for him ; if Mr. O'Donovan came to see any Catholic prisoner, who had not reported for him, and who was in the lock-up class, although Mr. O'Donovan wished to see that prisoner particularly, witness would not have admitted him ; the only inconvenience attending that would be a delay until the next day ; witness would have conceived that line of conduct to be his duty ; Mr. O'Donovan, in case of refusal to see a prisoner, could apply to the governor ; has never known of any such application from Mr. O'Donovan to the governor, being refused ; witness would have acted towards Mr. Higgin in a like manner, and tell him the cause ; witness understood the orders of the prison to apply equally in this respect ; the prisoners in the lock-up class are allowed to go to Church and Mass on Sunday, unless they misconduct themselves while actually in that class ; while prisoners in that class are refractory, they are not allowed their half hour's exercise ; the fact

of being in the third class is confinement, but there is still a greater confinement for refractory persons, in which case the offender is kept from Church and Mass, and debarred from his half hour's exercise; for the first week, after a prisoner comes in here, Mr. O'Donovan has no access to him until after he declares his Religion, nor, as far as witness knows, Mr. Higgin either; has never heard Mr. Wood, the schoolmaster, explain the Scriptures, unless he was asked a question by the prisoners; believes that if a Catholic prisoner wished to retire while this explanation was giving, he could not, as the prisoners are not allowed to retire from the table until school is concluded; considers, that in the general regulation, witness has never heard any thing advanced by Mr. Wood that could occasion a Catholic to retire; he has seen a prisoner's arms and his legs chained; recollects, beside the two prisoners he has named, seeing Thomas Connell, and Duffy, and Barron, gagged, with keys in their mouths; does not at present recollect any other; Duffy had a very bad character in the prison; Connell, for a time, was a very good boy, but again broke out, for he had been at one time refractory; Duffy was a tailor; Barron was the very same character as Connell, but that he (Connell) had been for a long time a well conducted lad; these instruments were never put on but as the punishment for an offence; any officer had, at the time witness came here, the power of ordering any prisoner who misconducted himself, to his ward, and confining him there; he had not in his power to do more; if any further punishment were to be inflicted upon him, the report was made to the governor, and if it were the first offence, the governor came and inquired into the fact, and ordered the punishment he pleased; if the prisoner continued refractory, the officers might punish in some cases, without directions from the governor, though he has known the governor to come to the prisoners several times; the manner of proceeding is this, when a report is made, the prisoners are ordered into the day-room; the complaint is made, and the prisoner makes his defence, and the governor adjudicates accordingly; and if there be a further report made, the governor either comes to a further trial, or decides upon it on his own judgment; has seen an officer strike a prisoner; witness does not recollect the name of the person he saw first struck; believes Mr. Rowan may recollect it, for he severely reprimanded the officer who did it; Mr. Rowan reprimanded; Hume was leaving the ward, the prisoner was sitting on his hammock, and he (Hume) struck him; has seen Mr. Algeo strike a prisoner; has seen him strike Barron; Algeo struck Barron for not opening his teeth to let the key into his mouth; does not remember the precise time of that occurrence; recollects no other instance of the kind; the key commonly used was the largest that could be produced; has seen the sides of the mouth skinned and made bleed from the use of the key; that effect might or might not arise if a prisoner had submitted quietly; it depended in a great measure whether it was put on too tightly or not; Algeo struck

the prisoner with his hand; has heard Mr. Algeo make use of several expressions in disrespect of Mr. O'Donovan, but has heard nothing said to Mr. O'Donovan, nor ever in the presence of the prisoners, disrespectful to him; in the presence of the officers, heard Mr. Algeo say one day at the cross door, "here is the Red Whore's son coming," and when asked for an explanation, he said, that the Church of Rome was considered the whore of Babylon, and that he (Mr. O'Donovan) was one of her sons; the officers present were Protestants; thinks the observation was made in a jocular way; one of the officers was a female, and as it was a female, witness does not wish to mention her name; believes, indeed, that there was no one else present, but this female, Mr. Algeo, and himself.

Mr. DOLAN.—Perhaps, in justice to Mr. Algeo, the name of the female should be mentioned.

Witness objected to the naming of the female, from motives of delicacy, as he thought the subject, or epithet, was rather indelicate.

Mr. ALGEO wished that the name of any other persons present, rather than the name of the female was mentioned. The question was not pressed.

Examination resumed.—Mr. Crofton is the person who asks the Religion of the prisoner, before he is admitted into the interior of the prison. Mr. Crofton acts, or in witness's time did act, as clerk, in this particular—this refers to the coming in of the prisoners; does not know the general practice during the "probation." Has seen religious tracts in the prison; witness himself has had them; has had them in his own apartment on his book-shelf; to the best of his recollection, does not know of any such tracts being given out amongst the prisoners, or given to any prisoner, is not quite clear on that point; cannot "confidentially" swear that.

Cross-examined by Mr. Rowan.—Was first appointed to the situation of messenger to this establishment; the second situation was that of kitchen warder; was about a-year and a-half, may have been a little beyond the time in the first situation, for he cannot be so very precise; was here altogether about two years and two months; thinks the two first situations comprehended a year and a-half; during the time he was a divisional officer, was for some time unwell, and unequal to his duty; was eight or nine weeks of the time so unwell as to be unable to do duty; may have been about six weeks quite unable to do duty; the time that he was fully able to do duty as a divisional officer, was about three or four months; ought to be acquainted with all the rules and regulations of the prison, for he had an order book which he had regularly filled up to the period of his leaving it.

Mr. ROWAN—Aye, but there are, you know, many orders not contained in the order book.

If there were an order in the order book during his time, opposed to what he considers his recollection, it would show that he

was liable to be mistaken ; it is possible that since he left this, witness may have forgotten some of the rules of the prison. Remembers outrageous conduct on the part of the prisoners here ; remembers one evening here Mr. Hume was on the watch, but was at that moment absent ; witness went into the interior of the prison to look about, and saw five prisoners breaking their windows, the sash being out and ready almost to get out into the yard ; witness came up and reported to the hall porter, and got the keys of the division ; Mr. Hume just returned as witness got the keys ; witness and Mr. Hume both went down into the division ; the first prisoner whom witness and Hume addressed, and asked what he wanted, said, he wanted his liberty ; several of them (and there were nine of them in the same division) made the same answer ; one of them said he wanted to get out, others of them were silent ; they were, however, trying to break into the yard ; two or three of them did not make any effort to get out, they remained in their beds. The persons whom witness and Hume addressed said, that when they got into the yard they intended to go over the walls, and help the other prisoners out ; witness had a key in his possession when he was walking that yard ; witness was walking in the front yard first, and when he heard the noise he went and got the key from Mr. Butcher ; did not hear on that occasion, that it was their intention to hide when they got into the yard, and take the officers keys from them, but understood that they meant to make their own escape, and liberate the others ; recollects on a subsequent occasion, when he was on watch, of two men being guilty of violence, Duffy and Peter Bogue (whose name is to the Memorial) and Clarke and Morrison were of the party who attempted to break into the yard. In the second instance which witness was just proceeding to state, there were two men waiting outside the door of the division, with two sticks in their hands, when witness went in ; these sticks were a broken handle of a whitewash brush ; they rushed on witness ; witness, who was always cautious, held up the lantern which he had in his hand, and instantly shut the door and locked it, and went for aid. These men then began to break all the windows ; some of the glass fell upon witness's head as he was going off for assistance ; there were windows above the door which witness locked, and witness has reason to think that while he was shutting the door there was a stone thrown at him. Witness when he got the door locked first, applied to the sentry who was in the inside passage, and desired him to pay particular attention. The panes of glass above the door were large enough to admit a man to get through ; there were two laths inside, which were broken away. After placing the sentry, witness went for the serjeant of the guard, and he and Mr. Algeo, and four soldiers, went with witness ; when witness went down to the yard, he found the key-hole stopped with small stones, which prevented him going in there, and witness and the others with him went, by means of another door and stairs of a different division, to another door in the yard, and

Adjournment—Eighth Day—August 28.

Mr. George Keppell's cross-examination resumed—Recollects having seen the solitary cell, out of which Duffy escaped, immediately after; did not ascertain that he had any other instrument than the iron spoon to break the hole through which he got; believes Mr. M'Cloy found the handcuffs broken there; M'Cloy stated he had examined him just before locking-up time; witness examined the yard, for the second time, in two hours after lock-up, and he was in the yard the third round in an hour after witness was attacked; it appeared, and Duffy acknowledged, that he broke through in the course of the third round.

Mr. ROWAN (to the Court) you will soon perceive what kind of cells the solitary cells are—they are for security—

Mr. TOWNSEND—I understand perfectly the object of your questions; but such evidence avails nothing; Duffy may have been breaking out for hours.

Witness, and the other officers, made an observation on the hole, and seeing it like a parcel of loose sand, they said it was not fit to keep a child; the cement was just sand, quite dry. Does not remember any other breaking out; it was a general opinion that the walls of the solitary cells were quite insecure; would not consider, from the state in which the walls of the solitary cells are, prisoners secure, without any other mode of confinement; if the prisoners had not been confined by other means, their safe custody would not be insured; nor the lives of the officers secured. Has heard that Mr. Rowan was too lenient to the prisoners, for the safety of the officers; this was a common opinion in the prison; Duffy struck at witness on the first occasion when he broke the windows, but witness warded off the blow; Duffy swore at witness, and said he (witness) should not secure him, as he (witness) had secured the rest; from the state in which witness then found the windows and the prisoners, thinks there were no more means used to secure them than were necessary; another prisoner, Thomas Martin, also made an attack on witness; witness received orders to place him on bread and water, and when witness left the bread and water with him, he went to see another prisoner, who was in solitary confinement. Witness left Martin locked up in his ward, and when in the act of letting the other prisoner out, and giving him his breakfast, witness heard great noise and confusion in the division; witness immediately locked up that prisoner, and went back to the division, and found that Martin had broken his windows, and was breaking his loom; witness inquired of Martin why he was going on in that way, and remonstrated with him, alluding to his former good con[duct] and begged of him to stop; Martin was in a posture of [attack] and had one of the threadles of the loom; there was an iron [bar] fixed in the head of the threadle. Martin swore vehemen[tly]

this key-hole was also stopped with small stones, which the serjeant cleared away with the point of his bayonet. On going into the yard witness found that the prisoners (who were Duffy and Connell) had retired into the cells from which they had broken; on going into the cells they (witness and the others) found that Duffy had broken a hole through the wall that divided the yard from another yard; Duffy broke the lock off Connell's cell to let him out; both Duffy and Connell were confined in handcuffs, but they had contrived to get them off. Mr. M'Cloy was the officer of the division in which Duffy had been been confined at the time. Recollects the size of the hole which Duffy broke through the wall; Duffy at first must have broken off his handcuffs, and thinks it very likely that the hole was partly made during the day. Thinks, from lock-up hour until the attack was made on witness, two or three hours must have intervened; witness had gone his rounds three times; they must have been in the yard for an hour; they made several attempts to get over the wall, as they afterwards declared; witness thinks they must have had a rope.

Mr. ROWAN said, that the object of his questions was, to show the facility with which they (the prisoners) could make their escape, and the necessity of restraining them by coercion from doing so.

Duffy was in irons; and witness thinks Connell had also irons on him; the irons were on their legs; they had, notwithstanding, succeeded in getting up on the necessary; it was afterwards ascertained that Duffy had the handle of an iron spoon to get off his irons.

It was now the hour of adjournment, and Mr. Rowan stated that he could not finish the cross-examination of the witness.

The witness said, that he could not, possibly, without leave of the Committee of the Society for the Encouragement of Servants, to which he was assistant-secretary, come any day, until next Tuesday. It was, however, arranged that an application should be made to to the Committee.

COURT adjourned until Monday, 28th inst.

he would not let witness in; after reasoning a little with Martin, witness found Martin slackening his hold; Martin would not let witness in; he guarded the door against him; when witness found him slackening his hold, he (witness) turned shortly round and made a kick at the threadle, and sprang forward; witness raised the threadle about two feet and caught the threadle in his hand as it was coming down; witness could not secure him; he retired and locked the ward door; witness then came up to the officer for further orders how to act; Mr. Algeo then went down to the division, accompanied by another officer and witness; they found Martin in a posture of defence with another threadle; it was impossible to go in.

Mr. ROWAN here observed, that he had frequently been waiting at a door, under such circumstances, for a quarter of an hour with a file of men, and could not get admission; the soldiers would enter if they had directions to kill the man, but otherwise they would not attempt it, not being on equal terms with him.

Mr. TOWNSEND observed, there was one thing certain, that the prisoner could not get out—there was no doubt of his being at length obliged to submit.

Examination resumed—At last they did secure him; his brother not thinking that he would strike him, went in to him, and he struck the brother a most unmerciful blow on the head; the brother was a prisoner; the brother grappled with him, and then the officers entered; they found all the things in the ward broken—bedsteads, loom, &c.; Martin was then put into a solitary ward, upon bread and water; he was taken to another division; witness remonstrated very much against the mildness of the punishment inflicted upon the prisoner.

Mr. DOLAN—"I beg to say, sir, that we do not allege any cruelty towards the individual."

Mr. TOWNSEND remarked, that the evidence, as far as he could understand it, was to prove, by circumstances of this kind, the necessity of instituting certain rules and customs in the prison.

Mr. ROWAN said, that was precisely the object of the evidence.

In the case of Monaghan, Barron, Duffy, and Coghlan, who made a simultaneous turn-out, witness went, with the governor, to the work-room that morning, to inquire into the conduct of these and some others; the spirit exhibited on that occasion by Duffy, in his looks and conversation, was very insubordinate; Duffy's officer was there then, and was ordered to take Duffy to his ward and confine him; remembers violence used by him to his officer that evening; he pushed his officer in and bolted the door on him; cannot say whether he took the keys from the officer or not, but he bolted him in; witness thinks he had not the keys; Duffy then went into the officer's room, and fastened the door; after fastening the door, he went over to the officer's press and broke it open, and took out a case of razors; witness believes he broke all the windows

in the officer's room; believes some of the officers came up to try and get into the room; the officers did not succeed in getting in; one of the officers, without being desired, went for the soldiers and brought four or five of them; they burst open the door by great difficulty, by means of a large stone, used for cleaning the division; one of the soldiers pointed his bayonet to Duffy's breast, but Duffy defied him, having the razors in his hands; does not recollect by what means, but Duffy was at length secured; witness cannot say whether there was any unnecessary violence used in securing him, for witness was in the corridor at the time, but witness is sure there was no personal injury apparent at the time, when he was secured; witness believes there was a general shouting amongst the prisoners of that division, that evening; this was the evening of the gagging that they broke all that was in their cells; the flags of Monaghan's cell were all torn up; Monaghan was doing all this while they were securing Duffy; they continued shouting all the evening; in another division, another prisoner shouted; the prisoner to whom witness alludes, broke all the windows in his ward two days before; that prisoner was John Walsh, the second; remembers a man in Walsh's division, Thomas Connell was his name; Connell broke his windows that same evening; believes he broke them after the shouting had been over; witness heard some observations about the female side, that night; heard that one woman broke her windows.

Mr. ROWAN here observed, that his object was to show the effect produced through the prison by the shouting, and the necessity of the measures used to prevent it.

The division in which Connell was confined was on the same floor with Duffy; heard that people outside the prison imagined all the prisoners were breaking out; heard that the shouting was heard on the Circular Road, by persons in the next house to the new Chapel; the feeling of witness on that occasion, when the prisoners were gagged, was, that they were gagged to prevent them from shouting, and to prevent the consequences of it; knows that Mr. Rowan always expressed very great regret at being obliged to punish a prisoner; the officers were generally dissatisfied with the security of the prisoners; witness, while in the prison, was never satisfied of the security of a prisoner who was in any way violent; the officers used to be obliged to visit the prisoners who were confined, every half hour, to see that they did not break out; witness always thought, from the state of the building, that violent prisoners, in confinement, were insecure, he would have had them bolted to the ground or the wall, and would continue that punishment until he (witness) was satisfied that they were subdued; witness recollects leather handcuffs being got here by Mr. Rowan; thinks they were got from motives of humanity.

Mr. ROWAN here described the nature of these leathern handcuffs—they were like muffs, and the hands were brought to the waist, and a strap then went round the waist and was locked be-

hind; these were found useless, and so were the chains, that were applied in a similar manner; the chains were broken, by rubbing the padlock, which confined them, against the wall.

Examination resumed—Knows the leathern chain to be destroyed, and knew iron handcuffs to be destroyed also; knew two instances; there may have been more than two instances of bolts being taken off.

Mr. ROWAN said, that in very many instances, these outrages were committed for the purpose of getting to Botany Bay. In many instances persons sent here, think themselves ill treated. It often happens that the offences for which they are sent here, had been committed solely for the purpose of causing the offenders to be transported.

Witness has never known any difference of punishment on account of their respective Religions, made between Protestants and Roman Catholics; has known the women as violent as the men.

Mr. ROWAN here remarked, that the women did every thing as bad as the men, except endeavouring to break the prison, they even tore the strait waistcoats that were put on them; these waistcoats were recommended by Mr. Todd, as things which would secure the prisoners, without injuring them; at the time he (Mr. Rowan) remarked, that the use of them might hereafter be brought against him as new inventions in prison discipline, they being only used generally for lunatics.

Mr. TOWNSEND—"Did you get the order or recommendation from Mr. Todd, in writing."

Mr. ROWAN—"No indeed, although I have anticipated what was safe to be done as far as any person could; poor Mr. Todd is dead, but the matron was present at the time he recommended me to use the article in question.

Examination resumed—Never started a controversial subject, but always answered any questions put to him. It was the anxious wish of the governor, that controversy should be avoided; remembers an instance when Mr. O'Donovan applied to witness to see a prisoner, and when witness refused; believes the time was about three weeks before witness resigned his situation; the prisoner had reported in the morning to see Mr. O'Donovan; witness gave in his report, and Mr. O'Donovan came in the course of the day to see the prisoner; after being with the prisoner, Mr. O'Donovan asked witness to allow him to see another prisoner that was under strict confinement; witness told Mr. O'Donovan he could not allow Mr. O'Donovan to see the prisoner, as he was a Protestant, and under strict confinement; that prisoner's name was Elliott; Mr. O'Donovan moved on towards the prison door; Mr. O'Donovan then asked to see another prisoner; witness said to Mr. O'Donovan, that the prisoner had not reported in the morning to see him, and that therefore, he (witness) would not let him see him. "Remember this," said Mr. O'Donovan, "that you have refused to let me see a man, that I have come to see;"

witness then said, if he (Mr. O'Donovan) had a particular wish, he would let him (Mr. O'Donovan) see the prisoner; Mr. O'Donovan then called down the wardsman, to witness that he had been refused access to the prisoner; witness replied that he did not refuse, but Mr. O'Donovan went away; Mr. O'Donovan threatened to report the witness for his refusal; Mr. O'Donovan reported the circumstance to Major Palmer, the governor then being absent; witness knows no more of the report, for he left the place in three weeks after; when the Scriptures were read, the old Testament was read invariably at school hours; witness only knew two or three instances of the Bible being read in his division; there were two versions of the Testament, the master had one of each version, and each of the prisoners had his own version.

Mr. O'Donovan here observed, that the "Catholic Testament" used here was not a genuine one, he (Mr. O'D.) has protested against its use, both to the former governor, and to the present governor.

Mr. Rowan denied this, and said that the version used, was published under Dr. Troy's sanction.

Mr. O'Donovan persisted in saying, that he had protested against the version being read.

The explanations of the Scriptures made by Mr. Wood, the schoolmaster, in witness's hearing, have had no tendency to controversy; cannot recollect that Mr. O'Donovan ever attended on any of those occasions at school hours; has had frequent opportunities of seeing Mr. O'Donovan with the prisoners; has never seen, on any of those occasions, Mr. O'Donovan giving any description of literary instruction to a prisoner, with the exception of the instruction communicated by him in the Chapel on Sunday; has never heard him give any moral instruction to the prisoners; to the best of witness's opinion and belief, there have been a great deal of pains taken by the Protestant officers to instruct the the Protestant prisoners in education; knows that the Catholic prisoners have drawn a comparison between the instructions received by the Protestant prisoners from Protestant officers, and the Catholic prisoners from the Catholic officers; a very steady and well conducted Catholic remarked to witness, that during the half hour that a Protestant was out, the Protestant officer took that opportunity of improving his mind, and that he (the Catholic prisoner alluded to) was at a great loss, and had no instruction, but on the Sabbath morning. The name of the prisoner was William Connell, and he had a sister also in the prison; Connell was in the third class at that time, and observed that he was doing all he could to conduct himself, to get up to the second class; where he would receive some assistance from his fellow-prisoners; in witness's time he did not get up to the second class. Connell continued a Roman Catholic; Connell was never punished in witness's time, that is, while witness had charge of him. Has never heard an officer declare that he would bring forward charges against Mr. Rowan, but has heard an officer say that he could state such and such facts, relating those facts at the same time.

The cross-examination closed.

Out of the cross-examination some questions arose, and Mr. Dolan was permitted to re-examine the witness,

Does not recollect of what Religion Elliott, of whom he has spoken, was before he (Elliott) came here; cannot say where Elliott is now; witness left Elliott here after him.

Mr. ROWAN observed, that Elliott was transported.

Examination resumed.—Does not recollect any order in the book from Mr. Rowan, directing that controversy should be avoided.

Mr. DOLAN remarked that the necessity of producing the order book was evident.

Mr. TOWNSEND said, that he thought Mr. Dolan had relinquished his claim to the production of the order book on Monday.

Mr. DOLAN replied, that he did in some measure relinquish his claim when he saw there was a difficulty made to produce it.

Mr. ROWAN admitted the existence of some such book as that described—not a book that was exclusively devoted to the insertion of the rules of the prison; the book he had was one that contained some rules that were general, and some special. Mr. Rowan explained, as he did at an early stage of the proceedings, that when he first came into the governorship of the Institution, he did not make a code of rules; he was rather anxious to wait, in order that he might, when his experience justified him, select such regulations as he conceived were best adapted to the Institution. He was pretty sure that he had now sufficient experience, and he intended without delay to embody the regulations in a code suited to the prison.

Mr. DOLAN said, that Mr. Rowan's explanation fully bore him out in his application for the order book. The book which he (Mr. Dolan) required, was the one described by Mr. Rowan; that in which Mr. Rowan wrote his regulations, as circumstances required.

Mr. TOWNSEND intimated to Mr. Dolan, to give in writing to him a description of the book he wished for, and that on the ensuing morning he would inform him whether he should get it.

Mr. DOLAN said he would take an opportunity of again calling the attention of the Court to the application, (to witness) "do you believe in the sincerity of the conversions of the Catholics, who have become Protestants here?"

Witness—(after a considerable pause) "Why yes—I think I knew one man—he was not converted under me, but I believe from his conduct and obedience, and strictness of morals, that his conversion was sincere, and that he was sincere in his Religion."

Mr. TOWNSEND—"What reason have you to believe he was sincere?"

Witness.—"From conversations I have had with him, I think he was sincere."

Mr. TOWNSEND—"Do you know any other instance of this kind?"

Witness—"Why yes, I think another man, ——, was a sincere convert to Protestantism; he was at first violent in his conduct here, but he became reformed."

very high, and not being supported by the head, the weight of the entire rested by the bit that entered the mouth on the tongue. If the strap did rest on the head it would not hurt, unless it was fastened very tight; witness cannot tell how the head piece was fastened behind. At the time Coghlan had had this on, his arms were pinioned behind with small chains, and he was handcuffed also. The helmet was put on Coghlan, as witness understood, for the purpose of preventing him from crying the quarters of the hour like the sentry; witness heard the cry out of the quarters on the Circular Road.

Mr. ROWAN—The Circular Road is four or five hundred yards from this.

Heard this noise at night; witness heard Mr. Rowan desire Algeo to put the head pieces on two of the prisoners; Mr. Rowan asked witness if he had locks for them; witness said he had not; Mr. Rowan then desired witness to get them scoured; they were rusty; he did not say anything as to the manner of getting them on. Coghlan, either a day or two before the head piece was put on, had broken his windows, and it was the night he had broken his windows, that he and the other prisoners were crying "the quarters;" when witness saw Coghlan, he (Coghlan) was in the Cork division; he was going then to one of the solitary cells; Mr. Rowan observed, that putting the keys, &c. into the mouths of the prisoners, was a plan of Mr. Algeo's, and that when he saw them on the prisoners at eleven o'clock, the night before, the blood and froth that were coming from their mouths reminded him of a horse in the hands of a horse-breaker; Does not know of any report being made by Algeo to Mr. Rowan, about these head-pieces, only that Walsh had broken one of them: witness was present at that report; it was given verbally; Mr. Rowan, in reply, said, that he would get some made of a stronger description; when an officer in this establishment, witness expressed his intention of reporting something to the Government, and witness has reason to believe that that expression was the cause of his suspension; believes so from questions which Mr. Rowan asked of a person after he (witness) was placed under suspension; if the Lord Lieutenant granted witness an investigation, he would undertake to prove the motive that led to his suspension. He said, unguardedly, in the presence of several persons, that if Mr. Todd, the surgeon, did not report to Government the cruelties that John Walsh suffered in the cage, he (witness) would report them; witness, on his oath, believes this was the origin of his suspension; on his oath he never did an injury to this establishment, but conducted himself as a good officer in the Institution, as far as his abilities enabled him; there was a change of dates effected in his (witness's) accounts, to injure him; recollects Duffy and other prisoners being confined in their own cells; they had broken their beds at the time; when Mr. Crofton and witness went into the division, Duffy had locked up Bailey the warder, and had a razor in his hand; Mr. Crofton

asked him what could induce him to act so? he replied it was no wonder he should act so, when he was punished for speaking to the judge who tried him. Witness is a Protestant. Heard that one of these mouth-pieces was used for about ten minutes on a woman, in Mr. Hollingsworth's time; witness is not aware that it was used on any other occasion; witness once asked Mr. Hollingsworth, when a prisoner had been very outrageous, why he did not use the head piece? Mr. Hollingsworth replied, that he had inquired of the Attorney-General about it amongst other things, and he heard from him that it was illegal to use it; Mr. Hollingsworth must have inquired this after he had put it on the woman; Mr. Hollingsworth got the instrument from the Rev. Mr. Nixon, of Kilmainham, and he got another made by it. While Walsh was in the cage, he got, for his allowance, bread and water, from one to two pounds a day.

Mr. ROWAN said, that as it was now within a few minutes of the hour of adjournment, he would defer asking the witnesss any questions until to-morrow.

Witness withdrew.

Mr. DOLAN said, that he wished to inquire of the Court, before they separated, whether a list, which he held in his hand, and which was verified by the oath of the Rev. Mr. Higgin, the Protestant Chaplain, was inserted upon the minutes of the proceedings. The list to which he referred was one that described, in a very detailed manner, the changes of Religion which the prisoners in this Institution had undergone; for it not only stated what the prisoners on coming in declared themselves to be, but it also stated what their profession of faith had been previously.

Mr. TOWNSEND said, that the list in question did not appear upon the minutes; it was produced and received, but he understood it to be subsequently cancelled.

Rev. Mr. HIGGIN said, that the list which he gave in, and to which Mr. Dolan alluded, was made out upon his own belief, and in some instances upon his knowledge of the original profession of faith which the prisoners had followed.

Mr. TOWNSEND said, that the lists subsequently given in, and which he conceived obviated the necessity of using the list referred to by Mr. Dolan, were given in by his (Mr. Townsend's) desire. They were, he conceived, more to the point. Mr. Rowan had no opportunity of knowing the original Religion of the prisoners; he had neither means of finding it out, nor any inducement to inquire, and naturally received the declaration of Religion which the men made on coming in. He (Mr. Townsend) directed that the amended lists should say what Religion they here declared themselves to belong to; assuming as he (Mr. Townsend) did, that the Court had nothing to do with their Religion previously.

Mr. HIGGIN observed, that he only made out the list as well as he could, and to the best of his belief.

Mr. DOLAN said that from the opportunities Mr. Higgin had of knowing the prisoners, that belief must be considered on such a point very conclusive.

Major PALMER remarked that the list to which Mr. Dolan alluded was one made at his desire, and if it were cancelled, he should require its production, as he considered it material.

Mr. DOLAN assented.

The COURT adjourned.

Adjournment—Ninth Day—August 29.

Mr. ROWAN said, he had a proposal to make before the business proceeded. He (Mr. Rowan) had indirectly received an intimation, that the Investigation was about to close, at which he was gratified, as he was very anxious for its termination. He would be obliged to examine Mr. Manning at great length, but he would waive the cross-examination, and all the benefits derivable from it, if the opposite party would consent to close their case, as it stands. He (Mr. Rowan) supposed there was no new matter to be introduced, and that the object of producing witnesses now was, to corroborate what had been already sworn to.

Mr. DOLAN in reply stated, that he had a consultation last night with Mr. O'Donovan, which anticipated in a great degree, Mr. Rowan's present proposal, and enabled him to give an immediate answer to it—they could not consent to what Mr. Rowan proposed.

Mr. ROWAN inquired, was there not an understanding that time would be allowed him to cross-examine witnesses, and that he should at any future stage of the business, recal witnesses to be cross-examined.

Mr. TOWNSEND replied in the negative; if however, any thing occurred from want of due notice, or the specification he sought for, that made such a proceeding as he inquired about, necessary, the Court would make him all allowance.

Mr. ROWAN again observed, that the cross-examination of Manning, and the examination of the various documents which he should produce, would occupy a great deal of time.

Mr. TOWNSEND thought it fair to permit the recalling of Manning at any future time, if, on his cross examination, new matter should arise.

Mr. DOLAN suggested that Mr. Rowan should proceed to examine Manning as far as he could, and that he (Mr. Rowan) had the power of again examining him if he pleased.

Mr. ROWAN adverted to the injury which he might sustain by an adjournment.

Mr. DOLAN—I think Mr. Rowan had all the benefit he could desire, from the interruption of the cross-examination of the last witness he cross-examined.

Mr. TOWNSEND—I really cannot say that if the examination had proceeded without interruption, it would have made any difference in the testimony of that witness.

Mr. DOLAN—You cannot fail, Sir, to remember his refusal to answer the last question he was asked on his re-examination, as to his having had conversation with Mr. Rowan, or any other officer since his first examination, and the inference to be drawn from

that refusal. Let that fact be coupled with another circumstance that occurred previously to his being examined here, our inability to procure his attendance, in consequence of being informed by the Rev. Mr. Higgin, that he was not bound to attend on your summons.

Mr. TOWNSEND—Really Mr. Dolan, if you had pressed the question you wished Mr. Keppel to answer, we would have endeavoured to make him answer.

Mr. DOLAN—Indeed, Sir, I pressed it as far as I could.

Mr. ROWAN—I feel myself bound to press for a postponement of the cross-examination of Mr. Manning. I am not prepared to enter on that cross-examination; there were many things deposed to by that witness, which I never before heard of.

Mr. TOWNSEND—Although a prisoner in many cases is entitled to a copy of his indictment, he never is considered to be entitled to a copy of the informations. He is acquainted with the general charges made against him, but he is not informed of the detail of the evidence by which those charges are to be proved; and thus, although a prisoner may have no notion of the evidence to be brought forward, still he is tried upon it—

Mr. ROWAN—Mr. Manning yesterday was examined upon facts not at all connected with the matter before the Court, but circumstances entirely personal to himself, and involving my character.

Mr. TOWNSEND—That evidence was not at all relevant—I did not pay much attention to it, and if at all noticed on my notes, it was to show that there was an existing ill will between the witness and you, as affording a fair inference in your favor.

Mr. ROWAN—I would sooner waive the right of cross-examining under such difficulties.

Mr. TOWNSEND—I have made no answer at all to the application—if the delay sought for were connected with the business, the question might be entertained; but if the delay be asked for the purpose of rebutting the allegations made by Manning, which have no relevancy to the business, we cannot at all entertain it. (To Mr. Dolan)—What do you say to this application?

Mr. DOLAN—I submit, Sir, that Mr. Rowan has shown no cause at all for the delay. We are now quite at a stand, unless I alter the entire course of proceeding. However, if Mr. Rowan will say that he will not cross-examine Manning, we will proceed under all the inconvenience.

Mr. ROWAN—I will only repeat what I have just now said; by your own declaration, you can proceed with the examination if you please.

Mr. DOLAN—Yes, but at great inconvenience.

Mr. TOWNSEND—Will the parties have any objection if we ask a few questions privately of the prisoners in the Penitentiary. We mean that the Commissioners, unaccompanied by any other person, should ask them?

Mr. DOLAN—If I only, were concerned, I would have no objection to such a proceeding; but, acting for others, I could not with propriety agree to it. The Inspector's General will pardon me, when I also state, we have it in evidence, that one of them refused at one time to hear complaints from the prisoners in the prison.

Mr. TOWNSEND—Oh! we have nothing to do with that.

The Commissioners here consulted for a considerable length of time.

Mr. TOWNSEND—The suggestion was made by Major Palmer; but, on consideration, he has no wish that those inquiries should be made in private: to myself, personally, a private examination of the kind would be rather disagreeable, but as I am one filling a public situation, I would be influenced solely by a sense of duty, and I would not fear observation, from pursuing such a course. (to Mr. Rowan) Have you any objection?

Mr. ROWAN—Not at all, sir.

Mr. DOLAN—The great extent of Mr. Rowan's influence in the prison, would make me object to an examination at which I could not be present.

Major PALMER—That is our reason for suggesting privacy, there would then be no restraint.

Mr. ROWAN—Still I think I would object to an examination of the kind until after the Inquiry, for new matter might arise in the course of it.

Mr. TOWNSEND concurred with Major Woodward, in thinking, that if the examination were to be private, the present was the best time for entering upon it; if on the other hand, it was to be in the hearing of the parties, it would be better to postpone it till the close of the proceeding.

Mr. DOLAN said, that one good reason for producing the prisoners, was, that their declaration would supply any deficiency that might be supposed to occur in the lists which the Rev. Mr. Higgin had handed in, and which stated what the Religion of the prisoners had been, and the different changes; upon the inference deducible from those lists, he (Mr. Dolan) laid great weight.

Major WOODWARD concurred in this view, and that the prisoners could be sworn, a great many at a time, and one or two simple questions asked them.

Major PALMER—Mr. Higgin's returns are as correct as possible; they are founded upon a book in his possession, in which he has entered, at different times, the information given him by the prisoners themselves.

Mr. DOLAN—I think also that the lists are abundantly distinct evidence, and if the lists are all entered on the minutes, it is quite sufficient for my purpose.

Mr. TOWNSEND (to Mr. Higgin) Is the information drawn fr[om] the prisoners themselves.

Rev. Mr. HIGGIN—I think I may say that it is, with

two exceptions, given by the prisoners themselves at different times to me.

Mr. ROWAN—You are aware that it is only what the prisoners themselves said, and after they came here.

Mr. TOWNSEND said, that if the parties pleased they could examine the prisoners to the fact.

Mr. DOLAN said, he was quite satisfied with the inference to be drawn from the evidence just given by Mr. Higgin.

Mr. TOWNSEND—It is evidence not on oath.

Mr. DOLAN—The lists are sworn to, by Mr. Higgin, to be accurate to the best of his belief and knowledge; the accuracy of the return is unquestionable, for the prisoners would be more inclined to speak unreservedly to Mr. Higgin.

Mr. TOWNSEND—May be not, other motives may have prevailed when they were making their declaration; God only knows, there is certainly an inference to be drwwn from the fact, that most of those sent here are of that class of persons of this country, who are, generally, Roman Catholics.

Mr. DOLAN wished either course to be pursued, that is, that the returns should be received, or that the Commissioners should inquire the fact from the prisoners themselves.

Mr. TOWNSEND said, that he thought the inquiry would be better postponed until after the proceedings had closed.

Mr. DOLAN expressed his apprehension of the interference, in the mean time, of persons interested in suppressing the truth.

Major WOODWARD—said, that the question was what these persons were when they came here—were they Catholics or Protestants.

Mr. ROWAN said, that they might be Pagans or Infidels. "It has been said," added Mr. Rowan, "that I have influence in the prison, and it has been insinuated that I may use that influence for certain purposes; has no other person influence? Now, I will gladly make a pledge, and let a similar pledge be made at the other side, that I will not in any way communicate with the pri. soners."

Major PALMER—I suppose you allude to Mr. O'Donovan—you know he has no intercourse—the changes that have occurred in the Religion of the prisoners leave him no more than twenty or thirty prisoners under his care; he has no intercourse with the Protestants, who constitute the great majority of the prisoners, nor ought he have any.

Mr. ROWAN—I would much rather not make any further allusion to the subject.

It was understood that the decision of the Commissioners, with regard to the application for examining all the prisoners, was as follows:—"If the parties please, they may individually call them now, and it is likely, at the termination of the Inquiry, the Commissioners will examine them, but the parties shall not then have the power of examining them."

In consequence of Mr. Rowan declining to examine Mr. Manning, and Mr. Dolan not being prepared for such a decision, having no witness in attendance to examine, the Court was about to adjourn—

Mr. DOLAN—I think it right to remind the Court, that the adjournment now is not my act or wish.

Mr. ROWAN—I do not agree with you in that—you should have your witnesses in attendance—you had no reason to assume that I would occupy the time of the Court for any length.

Mr. TOWNSEND—(to Mr. Rowan)—Oh! yes, he had every right to assume it—at ten minutes before three o'clock yesterday evening, the Court was adjourned in consequence of your saying, that from the extreme length at which you would cross-examine the witness, you thought it advisable to defer asking him any questions until this day. However, you (to Mr. Dolan) may find something to inquire of those in the prison—it has been stated by some of the witnesses, that they heard of prisoners being cruelly treated; now, you have the names of these prisoners upon your notes, and you may examine them, if you please.

Mr. DOLAN—At all events, I will not examine these prisoners now, and I may add, that my present impression is, that I will not examine any other of the prisoners, and I have advised Mr. O'Donovan to that effect—the reason for my doing so is obvious.

Mr. TOWNSEND—(to Mr. Dolan)—There is another point, on which I wish to say a word; I think if it be not your object to take an unfair advantage, and as you have refused to Mr. Rowan a specification of the charges to be brought against him, you will, when your case shall have closed, give to him a statement, in the nature of a speech to evidence, of those charges which you may consider to have been proved, in order that he may have time to prepare his defence—suppose a day for that purpose.

Mr. ROWAN—I hope I will not be limited to a day.

Mr. DOLAN—I have no objection to give the statement wished for, provided it be placed on the minutes.

Mr. TOWNSEND—It certainly shall, if neither party object.

Mr. ROWAN—It is the very thing I wish for.

Mr. DOLAN—As to the latter proposition, that Mr. Rowan shall have reasonable time to prepare his defence, after the case for the prosecution is closed, I conceive it was granted at an early stage of this Inquiry, I know I used the circumstance as an argument against furnishing the specification.

COURT adjourned.

Adjournment—Tenth Day—August 30.

Mr. ROWAN, on the sitting of the Court, said, "I think it right to observe, that after the Court broke up yesterday, I saw Mr. Blackburne, my Counsel, and shewed him the testimony of Manning. It is Mr. Blackburne's opinion, that there is no occasion of cross-examining the witnesss, and therefore I will not cross-examine him."

Mr. DOLAN—"Very well, sir; then in that case I think we will be able to close in two days."

Mr. John Neary sworn and examined.

Is the apothecary of this house; has witnessed from time to time the punishment of the prisoners; has not had experience of the punishments used generally in prisons; the punishment he considered most severe here, was that of a man, John Duffy, whom he saw with bolts and handcuffs upon him; and who, at the same time, had an iron in his mouth; the iron that was in his mouth, was the handle of a door, as well as witness recollects. Witness saw this man in one of the solitary cells in the yard; witness knows nothing of his own knowledge of the diet he got there; saw Duffy on the morning after, when he visited him, in the state described; he was in a solitary cell still. The iron which was in his mouth, was removed when witness saw him the second time; but, as well as witness recollects, the fetters and handcuffs were still on him; witness never saw the iron in his mouth, but that one morning; does not remember how long the fetters and handcuffs remained on him; witness used to visit him every day; does not know how long he remained in the solitary cell; witness saw the cells torn up, and the windows broken; and heard that it was for being one of those who did these things that Duffy was punished. Duffy could not stand erect, there was a chain that prevented him, from the bolts on his legs to the handcuffs. At the commencement of this punishment of the persons of whom Duffy was one, Mr. Rowan gave witness directions to visit them; the names of those, witness recollects to have attended under their punishment were, Barron, Monaghan, Charles Gray, and Coghlan; Mr. Rowan told witness to visit them every morning; that he was resolved to punish them while their health would bear it. Mr. Rowan directed witness if he found the men ill to bring Surgeon Todd to see them; the foregoing were the directions of Mr. Rowan. Witness continued the daily attendance as long as the persons were confined; witness cannot say how long they were confined, but supposes they were confined six weeks, does not think they were injured in their health by the punishment; they sometimes complained of a head ache, and of being costive in their bowels—nothing more. Witness brought Mr. Todd to visit them in order that he might see that

they were in punishment, and that he might take any responsibility that resulted. This measure was not in consequence of any particular charge, but merely to divest himself (witness) of any responsibility; cannot tell was this after receiving directions from Mr. Rowan; told Mr. Todd they were in punishment, and that he wished that Mr. Todd should see them. Witness keeps no book but the prescription book, and cannot tell whether there is a book of punishment kept in this house; witness does not recollect making any observation upon the food then given to the prisoners; witness has nothing to do with the food. He (witness) brought the surgeon, thinking he was the fittest person to judge of them; witness continued to visit them; witness saw some prisoners reduced in flesh, while in punishment in the solitary cells, but he did not mention the fact to Mr. Todd. Witness thinks that change was produced from being in the solitary cell, from being on low diet, from want of exercise, and from the want of ventilation in the cells. Prisoners have complained to witness of being kept on bread and water for sixteen or seventeen days; witness does not recollect that any of the five prisoners complained; when witness has heard them complain, he did not make any representation, not thinking it his duty, as apothecary, to interfere with any directions with regard to punishment ordered by Mr. Rowan. Witness, in case of the health of a prisoner being injured by such causes, would bring the surgeon, it being his duty to interfere. Thomas Martin, —— M'Cann, Rose M'Carthy (the woman referred to in the evidence of a witness before examined, as having terrified him in Cork, by a description of the Penitentiary) complained to witness of getting bread and water; the five prisoners complained to witness in December, 1824; Rose M'Carthy has left this; M'Cann and Martin are both here; Mr. Todd did not see Duffy when he was in the situation described by witness, and his description refers to Duffy alone; Mr. Todd was not with witness the morning he saw Duffy in the state witness describes; witness is not certain whether the connection which caused the contraction of the back of Duffy was caused by chains or ropes; if it were longer, however, Duffy could stand erect; witness only saw the contraction one day; witness thinks Duffy could not, if he pleased, stand up straight; it did not appear to witness that Duffy suffered any injury from that punishment (the contraction); when the chain or rope was loosened, Duffy stood erect. Witness has heard Mr. Todd make an observation, but not to Mr. Rowan, about the effect of punishment upon a particular prisoner. Has not heard Mr. Todd make the observation, in the hearing of Mr. Rowan; the contraction of the back would, in length of time, cause bad effects on the constitution; but the chain or rope, which caused the contraction, was not on Duffy the next morning, after witness saw it first. Recollects Mr. Todd recommending that Rose M'Carthy should be taken out of solitary confinement, and sent to her division; recollects her being taken out in consequence, and brought to the hospital; she

was very weak and low; she was confined to bed for some days after; she complained much of headache; she was removed on the day that Mr. Todd recommended her removal. Mr. Todd attributed her state to her being in the solitary cell; when Mr. Todd saw her in the hospital the day after, he told witness this was the cause; witness thinks imprisonment in a solitary cell might injure the body by its effects upon the mind; witness visited Rose M'Carthy, daily, while she was in the solitary cell; witness thinks as well as he recollects, that Rose M'Carthy had handcuffs on her, while in the solitary cell; witness does not know how long she was there, nor what description of diet she got. Rose M'Carthy was in solitary confinement frequently; witness saw a strait waistcoat on her in the hospital, but cannot say whether she brought it on her from the cell to the hospital; it was not by Mr. Todd's direction that the waistcoat was upon her; supposes that it was put on her to keep her quiet and prevent her from doing mischief; witness did not observe any disposition about her to violence; witness nor Mr. Todd did not desire it to be taken off, but Mr. Todd gave directions to have it loosened about her, so as that she would not be confined about the chest; witness does not know who ordered the strait waistcoat on her; Mrs. Farrell, who is here now, was the warder of the hospital; believes she (Mrs. Farrell) is the only Catholic officer in the building; witness has seen a strait waistcoat on Rose M'Carthy in a solitary cell: witness has heard that her character was very bad—that she was of a very violent temper; she did not appear deranged in the hospital, nor at any time that witness saw her; witness has seen John Walsh, commonly called "Walsh the second;" witness has seen him confined in the rope-walk, in the place commonly called the "cage;" witness went there with Mr. Todd, to see Walsh in punishment; they found him lying in straw, and covered with straw; witness heard irons making a noise about him, but witness did not go over to him; witness neither knows of his diet, nor how long he (Walsh) was there; witness saw no bed-clothes with him; when witness saw him, he was lying with straw under and over him, he had his body clothes on him; the time was either winter or spring; it was cold wet weather; does not know what offence he committed; thinks this occurred either in the begining of 1825, or the latter end of 1824; witness has not been in the the rope-walk since, and cannot say is the place called the "cage," standing; the place was an arch or vault; there was an open window to it without glass; there were iron or wood uprights in the aperture; the window might have been two feet high, and eighteen or twenty inches broad.

Mr. ROWAN described the place as being an arch in a thick wall, over which there was a platform for the soldiers to walk on.

At this stage of the proceedings Major WOODWARD said he would go to measure the place.

Major Woodward, accompanied by Mr. Rowan, Mr. Dolan, and some of the officers, proceeded accordingly to visit the place.

Mr. ROWAN said, that as a matter of courtesy, he allowed Mr. Dolan to accompany him, but that he would not permit any other person.

On returning, Major WOODWARD described the arch, as being fourteen feet broad in front, fourteen feet high, and five feet nine inches in the depth, and the floor is the level of the external ground. Major Woodward said the outside wall was not now standing, but that he understood from the person who showed him the arch, that the wall, when standing, allowed the depth to be so deep in the clear as was described.

Examination resumed—When witness saw Walsh he was sitting up; witness is a Roman Catholic; there is no other male Catholic an officer, to witness's knowledge, in the prison; there have been, to witness's knowledge, many changes of Religion in the prisoners, but witness cannnot speak from his own knowledge of the cause of their conversions; cannot say, from his own opinion, what the cause was.

The examination was interrupted by a question from Mr. DOLAN to Major Woodward, through Mr. Townsend, "Do you think, Sir, that rain or snow would affect the prisoner lying in the place you have just inspected—do you think there is sufficient protection against them?"

Major WOODWARD—"No; I think, in point of fact, if there were rain blowing in directly, it would touch the prisoner. I recollect in Meath there are no windows in the jails, and I refused the other day to certify for the paymeut of a Bridewell, because the windows were not glazed; still, in many prisons, there are no glass windows. It was one of the greatest complaints Major Palmer and I had when we commenced our inspection of prisons, that in many instances the windows of the prisons were not glazed."

Examination resumed—Mr. Todd told witness that Mr. Goulburn gave him (Mr. Todd) the appointment to the situation of apothecary; witness entered on his office the 19th August, 1824.

COURT—Do you know of any objection being made by Mr. Rowan to your Religion, when you were appointed?

Witness—On the 18th of August, the day before I came here, Mr. Rowan asked me my Religion. I told him I was a Roman Catholic. Mr. Rowan told me that was a very great objection; that this building was intended to be conducted on on the same plan as the Millbank Penitentiary, and that there was a specific order that the apothecary should not be a Roman Catholic.

Examination resumed—However, the appointment took place, and the next morning, the 19th August, witness got a note from Mr. Arthur Hollingsworth, who acted here previously, as apothecary, by direction, as he stated, of Mr. Rowan, desiring witness to attend, that morning at ten o'clock, to go round with Mr. Hollingsworth, previously to his (witness's) regular admission.

Mr. ROWAN said, that if the witness were not so respectable as Mr. Neary, he would not take the trouble of setting him right upon

a subject of which he was misinformed. This was as to the appointment of Mr. Neary by Mr. Todd. Mr. Rowan read the following letter as being conclusive as to the appointment of Mr. Neary being made by Mr. Rowan, and not by Mr. Todd, or the Government:—

"*Kildare-Street, August* 18, 1824.

"DEAR SIR,

"This will be handed to you by Mr. John Neary, a candidate for the situation of apothecary to the Penitentiary. His professional qualifications are unquestionable, and the testimonials in favour of his moral character, are of the highest respectability.

"I am, Dear Sir,

"Your's, faithfully,

"C. H. TODD."

Mr. DOLAN argued, that this letter was not at all conclusive that the appointment was made by Mr. Rowan, and was quite reconcileable with the fact of his being appointed by Government.

Mr. ROWAN conceived that it was very strong proof of the fact; he would have no difficulty, however, in procuring a letter from Mr. Goulburn, or Mr. Gregory, that the appointment of the apothecary was left to him (Mr. Rowan.)

Witness—On coming from the "cage" where Walsh was, Mr. Todd said to witness, that "it was a shocking place; he would not put his horse into it."

Mr. TOWNSEND—Well now, I think it must have been the very place for a horse.

Mr. DOLAN said, that he thought it well to say, as insinuations were sometimes thrown out here, that he had never had any communication whatever with Mr. Neary as to his examination.

Mr. ROWAN said, the character of Mr. Neary was unimpeached and unimpeachable—he was a gentleman of the most perfect propriety.

By the COURT—Remembers Nowlan, who died here; Mr. Todd and Doctor Cheyne saw him when he was sick; Doctor Cheyne was visiting Mrs. Higgin, the lady of the Chaplain, and Mr. Todd brought Doctor Cheyne to see Nowlan; has seen a person in various confinements, in handcuffs, stocks on his hands, and conceives he could not assist himself for the purposes of nature—whether he could procure other assistance depended upon the warder; in the night the prisoners are called, and thinks that is sufficient to relieve a prisoner unless he had diarrhœa or bowel complaint, and this person had not either, witness has seen a person in the stocks; witness is not certain that his hands were confined; witness did not order him to be freed from the stocks, for Doctor Orpen had seen him; this was Graham; he had a blister upon him at the time, he could in a great measure relieve himself from the circumstance of his hands being loose; there is always a *pot de chambre* in the cell; has seen

Mary Frazer under punishment; she had stocks on her hands, which kept them asunder about the distance of nearly two feet; saw her under no other coercion; witness thinks, from the dress of a woman, that she could, under such circumstances, assist herself in the offices of nature; knows nothing of her general conduct, but from report, which was good, up to the period of her speaking in the Chapel; witness heard her then; it was soon after that she was put into solitary confinement; witness never knew her before in solitary confinement; on recollection, witness thinks he heard that she got into great disgrace for something she did when she was in the laundry; witness, with respect to Nowlan, cannot say how long Nowlan was in the building before he (Nowlan) came to the hospital; witness believes, however, that Nowlan was only a short time in the building previously; when Nowlan came to the hospital he was in a fever; witness thinks that fever had commenced before he came into the hospital; thinks the fever was on him when he came into the hospital; witness thinks Nowlan's illness commenced in the prison, after he came in; in general the symptoms of fever appear in two or three days after the fever has been taken; Nowlan was reported ill on the 17th March, 1825; witness cannot say of what character the fever was, whether typhus or of another description; Nowlan came into the hospital on the 22d March, (five days after the report being made); witness saw Nowlan before nine o'clock on the morning of the 17th, after he received the report; when witness first saw Nowlan, on that day, he did not think his removal to the hospital necessary; witness thinks it might have been necessary to have him removed on the fourth day (that is on the 21st March) after witness saw him; witness did not order him to he removed; it was not his duty; as soon as Mr. Todd ordered him to be removed, witness thinks Nowlan was removed to the hospital; while in the hospital, Nowlan got every thing fit for one in his situation; whatever medicine was ordered for Nowlan, by Mr. Todd, before he was removed to the hospital, witness gave to the hospital warder for him; before the patients are removed to the hospital, the hospital warder distributes the medicines ordered to the different divisions; witness does not conceive Nowlan lost his life through want of care.

Cross-examined by Mr. Rowan—Witness recollects hearing that the night of the day when he saw Duffy in the cell, in the situation described; the wall of the cell in which he was confined was broken through; witness has heard that Duffy had broken his handcuffs, but does not recollect hearing that he had broken his bolts; recollects that Mr. Rowan has spoken to him (witness) frequently, with anxiety, about persons under punishment; Mr. Rowan has told witness that he did not wish that Duffy, and the others punished with him, should lose their lives by the punishment; Mr. Rowan mentioned this at the same time, as witness has before deposed, that he said he did not wish that they should lose their health, and that if he (witness) saw them ill, he should bring Mr. Todd to see

them; when Mr. Rowan inquired of witness about the prisoners, it appeared as if he (Mr. Rowan) was anxious to obtain a precise knowledge of their state; does not recollect that Mr. Rowan has asked witness how long the prisoners under punishment could bear with a diet of bread and water, but Mr. Rowan has asked witness if the diet were injuring them; witness has mentioned to Mr. Rowan, on some occasions, that it was necessary to give air to the prisoners in solitary confinement; witness has heard Mr. Rowan express regret and vexation at the way in which the solitary cells were constructed; witness has heard Mr. Rowan complain of the construction of the whole building; is aware that there are, generally, small yards attached to the solitary cells; witness has seen prisoners, at the time, in solitary confinement, taking air and exercise, in those yards; when witness saw Duffy in the attitude already described in solitary confinement, he (witness) was alone, and he never mentioned the circumstance to Mr. Todd; Duffy was not in that posture the next day, when witness saw him, or he would have mentioned it to Mr. Todd; Mr. Todd did not come here the day witness saw Duffy so situated; Martin, of whom witness before spoke, complained of being sixteen or seventeen days on bread and water; thinks the punishment of Martin was inflicted the time Martin got on the top of the house, in an effort to escape; but is not sure that it was at that time; in point of fact, Martin was reduced, after his diet on bread and water, but he did not afterwards complain of ill health resulting from it; it is the natural consequence of living on bread and water, on moderate quantities, to reduce a man's health and strength, and mental energy, and it is a punishment; witness has walked through a part of two or three other prisons; thinks it is a common punishment in prisons to put prisoners on bread and water; witness has not read any accounts of the Millbank Penitentiary, but Mr. Rowan has stated that it is a matter of frequent occurrence to remove the prisoners from solitary confinement to the hospital, in consequence of their treatment while being inmates of the solitary cells; has not heard Mr. Rowan say that such an occurrence was common in the Millbank Penitentiary; witness cannot tell the precise time when Rose M'Carthy was brought from confinement to the hospital; thinks Mr. Tood has seen her once or twice in the solitary prison; thinks if he saw her health injured, it was his duty to report the circumstance to the governor, but does not know that he ever did it; witness has heard that Rose M'Carthy had made an attempt, while here, upon her own life; recollects on one occasion, being brought down by an officer to see Rose M'Carthy, and was then told by an officer that she had just made an attempt upon her life, by tying a handkerchief round her neck; witness thinks, that, under the circumstances of a person attempting her life, a strait waistcoat, moderately laced, was a more easy restraint than handcuffs and fetters; has heard that Rose M'Carthy struck Mrs. Duigan, one of the warders, when she was going to

Mass of a Sunday ; has heard that a bottle, which she was bringing to the Chapel for holy water, was broken on that occasion ; witness has heard some say that she struck Mrs. Duigan with the bottle, and has heard others say that Mrs. Duigan snatched the bottle from her, and that in the scuffle it was broken ; when witness went with Mr. Todd to see Walsh, he did not go over to the bed where Walsh was ; witness staid inside the door ; Mr. Todd told witness that he got a letter the day before from Mr. Rowan to see Walsh, but that when he came, there could be no key got to let him in to see him ; Mr. Todd walked over to the straw; Walsh looked about the place, but said nothing to Mr. Todd ; does not think Mr. Todd touched the prisoner; thinks Mr. Todd drew his opinion from the appearance of the place, and not from any ill health that he discerned in the prisoner ; witness thinks Mr. Todd asked him (witness) if he (Walsh) were sick ; thinks Walsh was not sick at this time ; witness heard irons but did not see them ; witness has heard that Walsh took off his irons and hid them ; has heard that Walsh had frequently broken handcuffs ; has heard that Walsh has buried the irons in his cell, and afterwards found them ; the window of the solitary cell, "the cage," was near the roof; the wall of the "cage," was fourteen feet high, the window being two feet high, was consequently twelve feet from the ground. The time witness saw this prisoner was in cold weather ; witness believes Rose M'Carthy was transported from this ; witness cannot say that Mr. Rowan was at home when she was transported ; but believes she was not transported then ; witness has access to all parts of the prison ; Mrs. Farrell has generally a master-key, which enables her to go through all parts of the female wards; she gets the master-key in the mornings; the day that Mr. Todd told witness he would not put his horse into the place where Walsh was, he told witness he would write to Mr. Rowan to have Walsh removed ; Walsh was removed in consequence ; witness never saw Walsh there afterwards, nor did he ever see any other prisoner there ; at that time witness is certain that he was not in the habit of attending prisoners unless specially sent for ; Walsh must have been there the day before, because Mr Todd had gone to see him, but could not see him for want of the keys, and concludes he must have been there for some days, it not being usual to send a surgeon to attend a prisoner the first day he would be in solitary confinement ; witness cannot tell precisely the time of Walsh being confined, it was in the latter end of 1824, or in the beginning, that is the first three months in 1825 ; when Doctor Todd saw Graham, who was in stocks, while he had dysentery, he ordered him No. 1 diet. Witness expected to be asked here of Nowlan's and Mary Brody's cases.

COURT adjourned.

Adjournment—Eleventh Day—August 31.

Mr. ROWAN, on the sitting of the Court, observed that it was probable, in his defence, he should have to produce several of the books of the Institution, and that it was quite obvious he was not obliged, nor indeed allowed, to exhibit the books of this place to every person unless by order of the Government.

Mr. DOLAN observed, that the production of the books to the opposite party depended upon the question of their being received in evidence.

Mr. TOWNSEND—It depends upon the nature of the books; if there be parts of them not relevant to the matter in investigation, you need not show them.

Mr. DOLAN—The books are public property; and if Mr. Rowan produce a book in evidence, I submit we have a right to see it.

Mr. TOWNSEND (to Mr. Dolan) It is difficult to answer a proposition so general; I think the general rule is this, if a book be produced, you shall read the whole of it; at the same time, if a credible witness swear that it is not connected with the business, we have a right to look through it and to see what it contains before we permit it to be read. Suppose now, in reference to the "cage," as the place of imprisonment was designated, you have a right to see the parts of any book relevant to that, but nothing else.

Mr. DOLAN would rather the Commissioners would not now pronounce any rule, as he felt, when the matter would arise, he would be able to show that, in the very case put by the Commissioner, Mr. Dolan would be bound to make out a case to take it out of the general rule.

Mr. TOWNSEND (to Mr. Rowan) If you produce any book we will have a right to see it, and the other party will probably have the same right—the general rule is in favour of publicity, unless you have a case to make out against it.

Mr. ROWAN said he would not take up the time of the Court by argument until some circumstance would arise that called on him.

Cross-examination of Mr. Neary resumed—Walsh was in confinement in the rope-walk, in the "cage," in the latter end of 1824 and 1825.

Mr. ROWAN was here commenting upon the indefinite statement of the date.

Mr. TOWNSEND—Oh! you know, by reference to your book, you have the means of showing the precise time.

Examination resumed—Barron, Duffy, and the others were confined in the prison in December; witness had Mr. Rowan's order to visit these persons, but he does not conceive it was under a general order he visited them; thinks the general order to visit all prisoners, daily, in solitary confinement, was not issued previous

to December; it was not, in point of fact, the practice of the witness to visit prisoners in confinement, every day, before he saw Walsh in confinement, in the rope-walk; has visited them when brought to them by the hospital warder, but not every day; there was no order for occasionally visiting them, but thinks Mr. Rowan told him to visit them occasionally; there was, however, no general order; witness was for some time after his appointment without a residence in the house; it is, to the best of witness's opinion, the rule of this house, when the officer opens the door of a prisoner, in the morning, to ask him whether he wishes to be put in the morning sick report; if the prisoner do not answer in the affirmative, he is considered well; witness cannot say does the officer inquire particularly of him whether he is well; does not know what the rule is with regard to the prisoners in solitary confinement, but witness supposes the rule is the same; prisoners have complained to witness of their being ill, and witness has doubted the fact, and witness finds a difficulty in ascertaining, even amongst prisoners who are in confinement, whether they are well or ill; when there is a doubt, witness gives them medicine; witness has not at all times been in the habit of reporting the cases of prisoners who stated that they had head-ache; when Duffy and the others were confined in December, witness did not think it necessary to report with exceeding particularity—(Witness was here handed an hospital report of convicts not in hospital, which, on the 18th Dec. were reported—on the 21st December, Thomas Connell reported, and an observation "not sick," was marked opposite his name; on 24th December, John Duffy is marked "not sick;" that is, that the prisoner was reported to witness "sick," and he declared him not to be sick; on 29th December, John Duffy "stationary," that is no change either one way or the other)—Witness does not think it his duty to make any report in aggravation or mitigation of punishment for prisoners; witness has been frequently told by Mr. Rowan, that he discharged his duties with great propriety; and he considered any interference with Mr. Rowan's directions with regard to the punishment of prisoners would be considered officious by Mr. Rowan; has recommended, on former occasions, air to be allowed to the prisoners—(Here an hospital report of March 6th, 1825, of convicts not in hospital, was handed in—the report was signed by witness, and recommended the discontinuance of the handcuffs on Thomas Connell).

Mr. Rowan—Mr. Neary stated, yesterday, that he never recommended any mitigation of punishment, he stated the same just now.

Mr. Townsend—No; he stated that it was not his usual practice to recommend.

Witness—Recollects a person of the name of John Waters here; recollects his feigning illness frequently; does not recollect having proposed any course of treatment to him; does not recollect having

proposed that he should be removed for a night or two to a solitary cell; thinks, but is not positive, that he did not propose it.

(Here a morning report of convicts not in hospital, dated December 15, was produced. That report stated, that Waters was "stationary;" there was, however, a note in Mr. Rowan's handwriting, stating, that Mr. Neary recommended that he (Waters) should be removed to a dark cell, on account of his feigning illness.)

Graham was sent to solitary confinement the second or third day after he came in; thinks Waters came into this house in February of this year; at the time Dr. Orpen visited him, when he had the bowel complaint, witness was not with him, but the Doctor ordered him medicine and hot diet, and marked down his disease, "dysentery;" does not think his illness lasted a week; he got medicine two or three times; considered his disorder a mild form of dysentery; thinks his disorder was dysentery, for he was passing blood; witness would consider it a very mild state of dysentery, if it only lasted two days. Cannot tell when Rose M'Carthy was removed in to hospital by Mr. Todd's directions; witness may be called in to see a prisoner after giving in the morning report, and then, in the next report, witness would use the word "stationary," if there were no change in the disorder, in reference to the condition in which he saw her before; witness stated, yesterday, some particulars regarding Nowlan.

Mr. DOLAN here said, that to save Mr. Rowan's time, on the part of Mr. O'Donovan, and the prosecution, he withdrew any charge regarding Nowlan. The Memorial was not drawn up by him (Mr. Dolan) or the allegation should never have been made. He (Mr. Dolan) never saw the Memorial until the Inquiry had been ordered; there was nothing to support the charge, and he (Mr. Dolan) wished to withdraw it. The Court would recollect that he had abstained from tendering any evidence upon the subject. He had no hesitation in stating that it was a most atrocious charge and totally destitute of foundation.

Mr. ROWAN said, that under the circumstances, he would certainly press his right to bring forward evidence on the subject—(Mr. Rowan here handed in several hospital reports, commencing March 17, 1825, describing the symptoms of incipient fever in Nowlan, and the different periods of the disorder up to the 22d, when he was removed to the hospital by an order contained in the report of Mr. Todd. On the 23d, the report was, that he was feverish, and fever was announced on the 24th. On the 25th and 26th fever—on the 27th, very ill, fever—28th, very ill, fever—29th, reported dead. Mr. Todd's report, announcing the death of Nowlan, stated, that he had died of a malignant fever, and recommended the immediate interment of his body.

A copy of the Inquisition held by the Coroner, on the 29th, was produced. The verdict was, death by "the visitation of God," and described his disorder as fever.

Examination resumed—Witness has expected that he would be examined here on the cases of Nowlan and Brady, because they were the only two instances of death that occurred since his coming here; it was his own opinion that he would be examined; thinks Mr. O'Donovan told witness that he would be examined on Nowlan's case, in the conversations he had with him; Mr. O'Donovan told witness that the prisoners were not properly attended to in their illness, and that he had heard from the prisoners that Mary Brady also was not attended to. Mr. O'Donovan and witness had conversations on this subject shortly after Nowlan's death; does not recollect that Mr. O'Donovan attributed the inattention Nowlan complained of, to the circumstace of Nowlan being a Roman Catholic. Witness thinks that Mr. O'Donovan inquired of him was Nowlan properly treated; and that he (witness) told him, he did consider Nowlan was properly treated; Mr. O'Donovan did not beg of witness to report to Mr. Rowan that such observations were made, nor did he inform witness that he (Mr. O'Donovan) had reported so himself to Mr. Rowan.

The cross-examination here closed.

Mr. DOLAN wished to enquire if a Coroner's inquest had been held upon the body of Mary Brady, whose name had been incidentally introduced, and who died in prison?

The COURT would not allow the question to be asked; the fact might form a subject for legal investigation. After a considerable discussion the matter dropped.

Mr. ROWAN said, that before the witness withdrew, he wished to inform him that his appointment was solely owing to him (Mr. Rowan.)

The witness hoped that Mr. Rowan had no reason then to regret his appointment.

To this Mr. ROWAN assented, and paid a high compliment to Mr. Neary for his general propriety and assiduity in his office.

The witness withdrew.

The Rev. John Martin O'Donovan sworn and examined.

Is Catholic chaplain here; the practice here, with regard to reports for the Chaplains is this: the prisoner "reports" a wish to see him, and the reports are transmitted by the warder to the governor. The agreement between the governor and witness was this: that, in consequence of the prisoners being scattered, (and this occurred immediately after the classification) whenever the prisoners wanted to see witness, they should report, through their keeper, to the governor, and that the report should then be left with the porter at the hall for witness to receive, as he was going into the interior of the prison.—Here the Rev. Mr. O'Donovan handed in the following letter:—

" *Richmond General Penitentiary, 22d Sept.* 1823.

" DEAR SIR,

" Annexed you will find a list of those convicts who arrived here " on the 18th instant, and who have declared themselves to be of " the Roman Catholic Religion. They are to be confined for a con- " siderable time, in close, in their respective wards, where, I trust, " they will attend to your admonitions and instruction.

" Truly your's,

" HILL W. ROWAN.

" Rev. Mr. O'Donovan."

Names of the Prisoners referred to in the above Letter :

Stephen Hendrick,	Christopher Reilly,
Cornelius Callaghan,	Michael Carroll,
Terence Coghlan,	Pat. M'Nevin,
David Drinan,	Pat. M'Kean,
Thomas Connell,	John Smyth,
Patrick Carey,	Andrew K—— (torn off)
John Goold,	Pat. M'Gee,
Bernard Rogers,	Henry Lennon,
Pat. Rooney,	John Sheehan.
Peter Rooney,	

Examination resumed—Witness saw Carey last March; witness was going into the division of Mr. Hume, and he met Carey in the yard by accident; each division has a separate yard. Carey spoke to witness, and asked witness did he get any report from him (Carey;) witness said he had got no report officially; witness did, however, get intimation through Capper, the boy who used to serve Mass, that Carey wanted him; witness got that information from Capper, a fortnight or three weeks before he saw Carey; Carey said to witness, " I have repeatedly reported for you without effect, and will you suffer my soul to be eternally lost ?" Witness replied, that as he (Carey) was not of his community, he (Witness) would not then converse with him, and that he (witness) did not wish to interfere with Mr. Higgin's flock, but that if he (Carey) wanted to report for him (witness) he should do it through his keeper. Carey then said that he had been induced to change his Religion, but that he was then, and always, a Catholic, and that he had gone to the Established Church for the sake of favour, that he might be made a carpenter. After this conversation Mr. Hume, the warder, came down to lock up Carey in his cell, his half hour or hour, the time for exercise, being out. Witness desired Carey to report to Mr. Hume, his warder, for him (Mr. O'Donovan)—witness asked Mr. Hume would he allow him (witness) to speak then to Carey ? Mr. Hume replied, that he would not allow it, and that his orders were to the contrary. Carey asked Mr. Hume, in witness's presence, when Mr. Hume went up to the lobby, did he (Carey) not

ask him to report for Mr. O'Donovan? Mr. Hume, in reply, said, that he (Hume) repeatedly made the report; (witness did not mention this to Mr. Rowan) and that if he (Mr. O'Donovan) did not get the reports, the fault was not his (Hume's.) Carey then reported in witness's presence, to send for him (witness) in the morning. Witness impressed on Mr. Hume the necessity of his not forgetting Carey's report; witness then told Carey, in the presence of Mr. Hume, that he (witness) would be with him on the following morning; Carey then thanked witness, and he went quietly into his cell, which Mr. Hume opened for him. Witness came to the Penitentiary the following day, and witness understood, through the prisoners, that Carey was transported that morning, that is, he was sent from the Penitentiary to the hulk. Witness cannot tell what length of time it takes to prepare an order of the Government for transportation. At the time of the conversation with Carey, it was about two o'clock in the day. After that conversation witness never saw Carey until he saw him in this room, when he was brought from the hulk to be examined; heard, through Peter Capper, three weeks before he saw Carey, that Carey wanted to see him, but during that time witness made no inquiry why his wishes were not regularly conveyed to him; did not inquire, because he got no official report since Mr. Rowan came from England last summer, unless two or three that he got privately from Miss Freeman. It is since that period that the conversation with Carey took place; witness asked Mr. Crofton why he did not get the reports as usual, which used to be written in the handwriting of Mr. Rowan, Mr. Crofton, or Miss Freeman, if the prisoner were a female; (the reports contained the names of the prisoner and warder); and he (Crofton) told witness that Mr. Rowan would make no reports for him, or words to that effect. One of the reports that witness had got, and of which he has spoken, was from Mary Lane, who was thought to be dying; she had been a Catholic, but changed her Religion, and at the time returned to the Catholic Church; witness prepared her, with the usual ceremonies, for death—she recovered, and continued to go to Chapel for some time. When she had recovered in the hospital, she was brought down to Miss Cooney's division, and witness happened to be visiting a person of his communion there; witness asked to see this woman (Lane) also, when Miss Cooney told witness that she reported to see Mr. Higgin, that morning, as she intended to go to Church. When Mary Lane heard witness in the division, she called out from the cell, which was bolted, that she wanted to speak to him; Miss Cooney would not allow witness to see her; witness did not report this occurrence to Mr. Rowan. Witness thinks this occurred either in January or February, this present year; witness does not think he saw Mr. Rowan but once since last July twelve months; witness has frequently asked to see him, without success; witness may have seen him at a distance, but not so as that he had an opportunity of speaking to him. When Miss Cooney refused witness access to

Mary Lane, witness took no step in consequence; witness did not take any step, because he understood, and he thought there was a system of encouragement pursued, to make Catholic prisoners become Protestants; witness believes this to be the fact, as well from his own observation, as from the opinions which he had gathered from the prisoners generally; witness never got the name or any intimation of the Religion of any prisoner, coming to the house, since June 1825, from Mr. Rowan or his officers, and witness is sure that many Catholic prisoners came in since that time, some of these have begun to come to Chapel since this Investigation commenced; witness is sure that before this Investigation, Catholic prisoners who declared their Religion on coming in, to be Catholic, entered the Penitentiary, of whom witness got no official intimation; thinks it was since that time that the plan called "the probation week," commenced; but witness is sure that it commenced within two years; it commenced about the time of the change of diet, when meat and soup were given on alternate days, every day but Friday and Saturday, when witness believes meal would have been given too, but that he, on being consulted, disapproved of it; witness thinks that the change was intended to give them better food, but he has heard the prisoners say, that from the greater quantity they got, they were better pleased with the old regulation regarding their diet; the prisoners got more potatoes, and instead of getting their meat boiled down into a kind of jelly, it was boiled in the usual way, and given with gravy; witness prefers the old way, thinks it to be a more nourishing kind of diet; at the time of the change of diet, Mr. Rowan said to witness that it would be said one of those days, that the change he was making, was from a desire to make proselytes, and therefore desired that the same food should be given to all; Mr. Rowan used this argument to induce witness to agree; witness said he could not agree to it, and observed, that such an intention would be imputed to him as he had described. The clerical duties witness performs here are these—celebrates Mass here once every Sunday, preaches, and, as he is required, does the other occasional duties of his office; witness has received from prisoners, tracts on subjects of Religious Controversy, and these were of the most abominable and opprobrious kind against witness's Religion; witness cannot say how these tracts were given to prisoners, or were they forced to read them; witness can only say, that he has heard they were left in officers' rooms, and left in the way of the prisoners, put into their cells, and given to prisoners; witness never heard that the prisoners were forced to read them; witness has seen these tracts in the cells, and in the rooms of the warders; witness has heard some of the prisoners cry out against these tracts, and declare that it was injurious and hurtful to their feelings, to have such tracts left in their way, as tending to undermine their Religion; witness refers in his ob-

servations, to those tracts that have already been exhibited here, and marked. Mr. Rowan, at the commencement, told witness that he would not allow any book here but the Testament, a Prayer Book, and Catechism; he objected to the latter; witness is sure that these tracts could not have been in the prison without Mr. Rowan's knowledge; witness once shewed Mr. Rowan a tract that was found in the prison; the tract was entitled "The Difference between Popery and Protestantism;" witness found this tract in the public kitchen; witness shewed this to Mr. Rowan, and spoke to Miss Freeman about it, for it was also circulated at the female side; Mr. Rowan condemned the book; it was about the period when a Catholic Catechism was found, with some smutty and blackguard words written on it by Mr. Butcher, the hall porter; a Catholic prisoner gave this Catechism to witness in the kitchen; the tract entitled "The Difference between Popery and Protestantism" was circulated in the prison; although Mr. Rowan condemned the tract which witness shewed him, he did not prevent their introduction into the prison, for witness found them more numerously circulated afterwards; witness attributes their general diffusion in the prison, to the circumstance of the officers of the prison, being for the greater part, what are called "Methodists." The impression upon the mind of the prisoners generally, is, that the female warders have a tendency to Methodism; prisoners have complained to witness of the warders entering into Religious argument with them, as the tendency of these arguments was to turn the Catholic Religion into ridicule. The prisoners declared to witness that the officers, in the course of arguments, used to tell them that they were adoring sticks and stones, &c. &c. Witness has been interfered with here by an officer, in the discharge of a part of his duties; witness came here last Easter twelvemonths, to hear (according to the custom of the Catholic church) confessions; witness was engaged in hearing the confession of Neal M'Cue, a male prisoner; the prisoner was on his knees and the officer came and told witness to walk out of that, that he would allow no such thing; witness means to say, that the objection applied to the witness using that place for the purpose of hearing confessions, the place was the day room, where the witness has been in the habit of hearing confessions; this room was the public room where the prisoners were in the habit of attending school, and also of eating their meals; witness retired to another place and there heard the confessions; the prisoners also felt great indignation at the way in which witness was treated; witness was never prevented before. In consequence of that occurrence, witness wrote a letter to Mr. Rowan, requesting of him to permit the prisoners to attend witness in the Chapel; the interruption occurred in Easter, 1825; it was last Christmas that witness wrote the letter to Mr. Rowan, requesting he would send the prisoners to the Chapel; witness was only interrupted in this one instance; he went through the other division of the men

without interruption; the officer who sent away witness in the disrespectful manner described, was Mr. Suter; witness celebrates Mass on all holydays that he is permitted; witness has been refused permission to celebrate Mass on holydays; was prevented on the 5th January 1824, and there have been instances of the prisoners being turned out of the Chapel when witness was a few minutes late; witness produced the following letter from Mr. Rowan, dated January 5th, containing the ground of his refusing to allow the prisoners to attend on the 6th, the day after that, being the *Epiphany*.

Mr. Rowan admitted that the letter was his hand writing.

"*Richmond General Penitentiary,*

"*5th January*, 1824.

"DEAR SIR,

"I am sorry that it will not be in my power to allow the convicts to absent themselves from their work to-morrow; they have had two holydays very lately, and the days are now so short, that I am anxious to keep them at work as closely as possible, particularly as I wish to get a good deal of whitewashing put out of the way of their usual avocations.

"Dear Sir,

"Faithfully yours,

"HILL W. ROWAN.

"Rev. J. M. O'Donovan."

The COURT adjourned,

Adjournment—Twelfth Day—September 1.

Examination of the Rev. Mr. O'Donovan continued—Has not access to all parts of the house he desires, particularly to the third or last class; is not admitted at all times into the first and second class; is always allowed to get to the Chapel on Sunday; is allowed to go to the Chapel whenever he desires it; witness never got a key to the prison for himself, and understands that all the other officers of the prison used to have one. There was a key in the male hospital that gave access to the corridor of the male divisions, which witness used to get when it was not in use by another; witness believes there are several keys, for witness sometimes gets a key with "surgeon" marked upon it; when witness is in the corridor he cannot talk to the prisoners in their cells; witness can always get access to the workshops and the schools, if he could find out the school hour which was very often changed; if witness inquired the hour, he could, he supposes, learn it without much difficulty; if witness heard that a person was in the lock-up class that he wanted to get access to, he would go to the keepers; some of them would give him access, and others would not; witness was refused access to Elliott, a prisoner, by Mr. Keppell, the warder. On another occasion witness was refused access to Manus M'Laughlin, who was in the hospital, by the hospital warder; witness understood that M'Laughlin wished to see him. At the time that M'Laughlin was in the hospital, he was a professed Protestant, but he was afraid he was dying, and he wished to see witness; is sure he would not have been prevented from seeing M'Laughlin by the warder, if M'Laughlin were a professed Catholic; witness insisted upon his right to see M'Laughlin, because he was originally a member of witness's communion. Witness thinks it ought to be a rule that he should have access whenever he pleased to every person professing himself a Protestant, who was a Roman Catholic, for the purpose of talking to him about Religion; thinks he ought to have access to all prisoners, under a restriction that he should not interfere with the Religion of those not of his communion, by introducing Religious subjects. If witness had that access he could always learn whether the prisoners wished to see him; for general purposes witness ought to have access; Protestants even have spoken to witness respecting diet; and witness thinks he ought to have the same privileges at the female side. Patrick Daly, and White, prisoners, who had been Roman Catholics, but who were professedly Protestants, spoke to witness since this Investigation begun. They told witness that they had reported for him; this conversation occurred in one of the workshops; witness spoke to their respective warders to desire access to them, which witness was refused; the prisoners were locked up in their cells then; the class was not a lock-up class; witness had heard that they wished to see

him for a month previously, and understanding that fact, and receiving no official account from them, witness went to them. Daly was under the charge of Hume, the warder; and White was under the charge of Bailey, the warder. Witness heard that they were locked up; and on hearing that, witness went to inquire, and was told by the warders that they were locked up; the warders did not tell the reason of their being locked up, nor did witness inquire; witness is sure that they still want to see him. Mr. Hume told witness that he (witness) could not see them without the directions of the governor, for which witness thought it was useless to apply. There were some male officers here whose characters had been spoken of respecting their visits to the female side of the prison; on account of this witness apprehended that his conduct might be maligned; and had an objection to hear the confessions of female prisoners, at Christmas and Easter, unless in the Chapel.

Mr. TOWNSEND—We would wish to know your opinion of those reports regarding the officers.

Mr. O'DONOVAN—I think, sir, with regard to the officers in question, they were unfounded.

On the subject of wishing the women to come to Chapel to confession, witness wrote a letter to Mr. Rowan, of which the following is a copy :—

"20*th November*, 1825.

"MY DEAR SIR,

"May I beg you will have the goodness to order the Roman "Catholic female convicts to be sent to the Chapel, on the Satur- "days, between this day and Christmas Day, in order that I may "be enabled to prepare them, according to the usual custom of the "Roman Catholic Church, for their Christmas duty, and you will "much oblige, my dear sir,

"Your humble servant,
"JOHN M. O'DONOVAN.

"To H. W. Rowan, Esq."

To this letter the following answer was returned by Mr. Rowan :—

"2*d December*, 1825.

"MY DEAR SIR,

"I am sorry that I cannot comply with your request respecting "the female convicts. The arrangement you propose would dis- "turb all the existing regulations of this Establishment. I am "sure you must feel that I have at all times endeavoured to give "every facility towards the discharge of your duties here, but in "this instance I cannot deviate from the practice hitherto "pursued.

"I am, my dear sir,
"Your's truly,
"HILL W. ROWAN.

"Rev. J. M. O'Donovan."

Mr. O'Donovam handed in a copy of another letter, bearing date, 15th December, 1825, addressed by him to Mr. Rowan, as follows :—

" 2, *Daniel-place*, 15*th December*, 1825.

" My Dear Sir,

" I am to acknowledge the receipt of your note of the 2d " instant, stating, that you could not comply with my request re- " specting the female convicts attending me in the Chapel, to per- " form their religious duties previous to the approaching great " Christian festival, and that the arrangements I proposed would " disturb all the existing regulations of the Establishment, (the " Richmond General Penitentiary) ; and that in this instance you " could not deviate from the practice hitherto pursued ; and in an- " swer, have only to say, that it never has been my wish to deviate from " any regulation which has been adopted for the good of the Estab- " lishment, or the improvements of its inmates, and that I am not " aware of my present application tending to that effect ; and beg " leave, most respectfully, but at the same time most firmly, to " observe, that your refusal to comply with my requisition, in this " instance, so far from being an upholding of the existing regula- " tions of this Establishment, is not only contrary to the heretofore " universal practice which has been observed herein, and of which " I can satisfy you by indisputable evidence, and with documents " in my possession, if you should so require, but also (if persevered " in) will be requiring me to act in direct opposition to one of the " fundamental principles of the Church of which I am a Minister, " and that my being in any way interfered with, in the present in- " stance, or, indeed, in the performance of any other of my duties, " as such Minister of the Church of Rome, will oblige me, in justice " to myself, to report it to the heads of that Church in this king- " dom ; but, previous to quitting this subject, I feel myself called " upon to assert, that the Chapel is the only proper place, on such " an occasion as the present, to see the convicts of any prison, with " regard to their religious duties, and that I would not be justifi- " able in attending them on such important duties as those to " which they are now called on to attend, in their wards ; and I beg " to observe, that were I so justifiable, I should have imagined " you would, yourself, have been amongst the first to have felt, " that delicacy alone would have been sufficient to prevent me so " doing, after the unjustifiable attacks already made against other " gentlemen of unquestionable respectability, whose duties happened " to call them to the female wards ; and I really should have rather " expected your disapprobation of my intention, had it been to " have so done, when there was a public place of worship. With " respect to the latter part of your note, I have merely to say, that " I trust my conduct, not only as Chaplain to this Establishment, " but through life, is such as to prove it has ever been my wish " to live in peace and harmony with every fellow-creature, nor " am I aware of ever having attributed a contrary feeling to you.

" I should hope, that if you have any unpleasant feelings in re-
" spect to this business, or to myself, you will allow me an in-
" terview, which I have repeatedly sought, without effect, since
" your return from England; and while on this branch, I cannot
" avoid expressing my surprise at your having, in one or two of
" your notes, seemed to attribute to me the circumstance of our
" being so long without meeting; whereas I have never been a week
" (unless through sickness) without being in the Establishment, at
" least four times; on many of which occasions, I have inquired
" for you to inform you of my being anxious to see you, but
" which appeared then not to be your convenience, or you not
" being in the way—the hope of such interview, I have now to
" plead as my excuse for not before replying to your note.

" The question respecting my right to coals, is of so very minor
" consideration, when compared with the foregoing, that I am well
" convinced you will feel the propriety of my not at present en-
" larging upon it.

" Hoping that this simple representation of my feelings on this
" subject will meet your approbation, and obtain for me all I require
" namely, the opportunity of administering the rights of our Church,
" in that proper and established manner, to the unfortunate inmates
" of the Establishment in question.

" I beg leave, my dear sir, to subscribe myself, with best wishes
" for your earthly and eternal happiness,

" Your obedient Servant,
" JOHN M. O'DONOVAN.
" R. C. Chaplain."

Examination resumed—That Christmas passed by, and the prisoners were not allowed to go to Chapel; and on the 3d of January, witness wrote, pressing for an answer to his letter of the 15th ult. and then on the 3d, the prisoners got leave to go to the Chapel. The prisoners were then sent, one by one, which caused great delay, and kept witness waiting in the cold for a very long time, in order to give witness inconvenience. Witness complains that the ventilation of the Chapel is destroyed by closing up the door, and leaving only the corridor above open, and that the door of the Protestant Church is not closed; the Chapel is in a very filthy dirty state.

Mr. ROWAN said, that he would decline cross-examining Mr. O'Donovan, as he was one of the chaplains; and he wished to treat him with the greatest courtesy.

Mr. TOWNSEND said, that a cross-examination was not uncourteous, unless it was intended to impugn the truth of the direct evidence.

Mr. ROWAN said he merely wished, then, that Mr. O'Donovan would state the times when he sought an interview with him, and the persons of whom it was sought?

Witness stated, that during the period since Mr. Rowan's return from England, in 1825, to last Christmas, witness often came here to this office, and asked of Mr. Crofton to see Mr. Rowan; witness has often asked the hall porter was the governor at home; and the porter has said he was not at home. Witness has often left word with Mr. Crofton, that he wished to see the governor, and desired Mr. Crofton to give his compliments to that effect to Mr. Rowan.

Here the case closed for the prosecution.

COURT adjourned until Monday, 18th September, 1826.

In the matter of the Memorial of Manus M'Laughlin and others, on the subject of the Richmond General Penitentiary.

The Memorialists humbly submit to the Commissioners appointed by his Excellency, the Lord Lieutenant, to inquire and report upon the facts stated in said Memorial, that they have proved the following facts in support of the allegations therein contained.

	PROSELYTISM BY MEANS OF	PROVED BY
1st.	Reports forwarded by Prisoners for Catholic Chaplain, not transmitted to him, and Chaplain not having free access, generally, to the Prisoners,	Carey, Capper, Gavigan, Connell, John Smith, M'Laughlin, and Mr. O'Donovan.
2d.	The Governor expressing to the Prisoners his wish to see them all Protestants,	Carey, Capper, Bridget Nowlan, Bridget Brenan, and Barry.
3d.	Mr. Algeo, the Deputy Governor, and Mr. Wood, the Schoolmaster, reading and expounding the Scriptures to the Roman Catholics, and giving them Tracts against the tenets of their Religion, and reading same to them,	Capper, Manning, Gavigan, Smith, Connell, John Smith, M'Cloy, Bridget Brenan, Barry, Graham, M'Laughlin, Keppell, and Mr O'Donovan.
4th.	Prisoners punished for refusing to accept the interpretation of Scripture given by Mr. Wood,	Capper.
5th.	Governor refusing to allow Prisoner to use an approved Catholic work,	Capper.
6th.	Officers in the Prison entering into controversial subjects with Roman Catholic Prisoners, and reading controversial works to them,	Capper.
7th.	Prisoners kept from Mass on Sundays and Holydays, often for a long period,	Capper.

	PROSELYTISM, BY MEANS OF	PROVED BY
8th.	The introduction of the practice of keeping the Prisoners a week or ten days, after they come to the Penitentiary, before they were called on to declare their Religion. This week is called the Probation week, ☞ The Commissioners will take notice that this practice is alleged by Memorialists to be an innovation of recent date, for the purpose of making Proselytes, and was unknown in the Institution until June 1825; they are referred to Capper's evidence, who states, that two years ago there was scarcely any Protestants in the Institution: also to John Smith's evidence.	Connell, Lynch; Returns presented by Rev. Mr. Higgin; Thos. Kearney, Richard M'Cann, Bridget Brenan, Kelly, Barry, Kelly, and Mr. O'Donovan.
9th.	Officers in the Institution asking and inducing Roman Catholic Prisoners to become Protestants and speaking to them disrespectfully of their Religion and ridiculing it,	Gavigan, T. Smith, Connell, Ann Lynch, B. Nowlan, Rd. M'Cann, Bridget Brenan, Kelly, M'Laughlin, and Mr. O'Donovan.
10th.	Mr. O'Donovan prevented from hearing confessions,	Gavigan and Mr. O'Donovan.
11th.	Distinction made between Protestants and Catholics, in respect of Trades, to the prejudice of the latter,	Thomas Smyth.
12th.	Taking away Catechisms and Prayer Books from Prisoners when in confinement,	John Smith and Barry.
13th.	Protestants getting their religious books gratuitously, Catholics being obliged to pay for them out of their earnings,	John Smith, Mr. O'Donovan, and Mr. Rowan's admission.
14th.	Prisoners wishing to return to the Roman Catholic persuasion, locked up when they gave notice of their intention,	M'Cann.

	CRUELTY BY MEANS OF	PROVED BY
15th.	Confining Prisoners in the place called the Piggery, day and night; and, in particular, confining Carey in stocks for a night in very cold weather, who was refused blankets during the night, and handcuffed,	Carey, John Smith, Kelly, Barry, Graham, and Green.
16th.	Prisoners confined in a cage in winter, without any covering but straw during day and night,	Green, Capper, Manning and Neary.
17th.	Prisoners put on bread and water, for a long period,	Carey 14 days, Capper 5 days, John Smith 13 days, Kelly 18 days, and Neary.
18th.	Prisoners handcuffed and gagged, and chained from their wrists to their ancles, so as to contract the back,	Capper, M'Clean and Neary.
19th.	Keeping Prisoners in stocks during snow, and without sufficient straw,	Kelly and Graham in stocks for 42 days.
20th.	Prisoners handcuffed behind their backs, and fettered and pinioned,	Capper, Green, M'Clean, and Manning.
21st.	Prisoners struck by officers,	M'Laughlin, M'Clean, and Keppell.
22d.	Prisoners put on bread and water for speaking to Mr. O'Donovan in the Chapel and yard,	Gavigan and J. Smith.
23d.	An iron helmet used on Prisoners as an instrument of punishment for shouting,	Gavigan, M'Cloy, M'Laughlin, Green, Capper, Keppel and Manning.
24th.	Keys and chains, and handles of doors used as gags, and tied on Prisoners, at the same time handcuffed and chained,	Lynch, M'Cloy, Green, M'Clean, Keppell, Manning and Neary.
25th.	Firing a pistol shot at a Prisoner by Algeo,	M'Cloy, Green and M'Clean.
26th.	Strait waistcoats used on Prisoners male and female,	M'Clean, Ann Lynch, M'Laughlin, and Mr. Rowan's admission and Neary.

TERENCE T. DOLAN,
Secretary to the Memorialists.

THE DEFENCE.

First Day—Friday, September 22, 1826.

The Commission stood further adjourned until this day.

The Commissioners sat at the usual hour. In consequence of the absence of Mr. Dolan, in England, Mr. Scott attended as Agent. On the sitting of the Court, Mr. Townsend read the following letter which had been transmitted to him, through Mr. Carmichael, since the adjournment :—

" *Upper Ormond-quay, September* 9, 1826.

" SIR,

" In reference to the pending Investigation into the conduct of " the Governor and other officers of the Richmond General Peni- " tentiary, I beg leave to inform you that there is a person who " was formerly an officer in the Institution, who can give very " material information on the subject matter of the Inquiry. As " the case for the prosecution has closed, I do not think I would " be justified in tendering him as a witness, but the Commissioners " may think it right to call for his testimony for their satisfaction. " I have not had any communication with him myself, but I un- " derstand that he communicated the facts that were in his know- " ledge to Major Palmer, and also to Mr. Gregory. His name is " Bernard Murphy, and he resides with the Rev. Mr. Taylor, " Argillan Castle, within a mile of Balbriggan.

" I have the honor to be, sir,

" your very humble servant,

" T. I. DOLAN.

" J. S. Townsend, Esq."

Major PALMER said, that Murphy did attend him at an early stage of the proceedings, but was not examined.

Mr. ROWAN said, that the application was as extraordinary an application as ever was heard of. This Murphy was a gardener here at one period, and was discharged for incapacity. In the absence of him (Mr. Rowan) in England, during which period his discharge occurred, he preferred charges against him (Mr. Rowan) and these charges were adjudicated.

Mr. TOWNSEND said, if it could be satisfactorily proved that these charges had been adjudicated, it would at once put an end to his production as a witness.

Mr. ROWAN here produced the official papers regarding the

transaction alluded to—a letter containing the charges, addressed to Mr. Gregory, was read. The charges were, of injustice towards him (Murphy) personally, and of cruelty to the prisoners in the prison. A report on these complaints from Major Palmer, Inspector-General of prisons, was read, stating, that the bad management of the garden justified the dismissal, and recommending that the charges of cruelty should not be investigated until Mr. Rowan returned. There was also a subsequent letter of Mr. Goulburn read, directing him (Mr. Rowan) to report on the charges. The report of Mr. Rowan, in pursuance of the order of Mr. Goulburn, was read—the report pleaded his right to exercise his discretion in discharge of the servants and officers; and with regard to the cruelty alleged, the report stated, that in a desperate mutiny, gags were put on by Algeo, to prevent the mutineers from inciting their associates to acts of violence, as they had determined to burn the prison, murder the officers, and strangle themselves; the report stated, that when Mr. Rowan went in to the mutineers, he had the gags removed, but it was quickly found necessary to replace them, in consequence of the conduct of the mutineers; the report paid a high tribute to the character of Algeo, who, it stated, had been discharged from his regiment, at Mr. Rowan's request, in order to come here, where his good conduct excited the rancour of certain persons. A letter from the Inspectors-General was also read, saying, that they thought his conduct justifiable, and paying a high tribute to Algeo. A letter from Mr. Goulburn was read, declaring, that under any circumstances, the use of gags was unjustifiable. This letter terminated the reading of the papers connected with the charges of Bernard Murphy.

Mr. Scott was here proceeding to make some observations,

Mr. Townsend interrupted Mr. Scott—I beg, sir, said Mr. T. to inform you, that we cannot allow you to speak here—you are to communicate what you wish to say, to Mr. O'Donovan, who, alone, has the privilege of addressing the Court.

Mr. Rowan protested strongly against such an interference.

Mr. Scott—"I conceive I have a right to speak, and I wish to argue my right. I would be entitled to be heard in a Court of Justice.

Mr. Townsend—"I hope, sir, this is a Court of Justice."

Mr. Scott—"Oh! sir, that, of course, does not admit of doubt—I mean that I would have a right in a Court of Law, and I assume that you will not deviate from the practice in such a case."

Mr. Townsend—"We have heard Mr. Dolan argue his right already—the course to be pursued by you has been defined by the argument of Mr. Dolan."

Mr. Scott—(taking up his hat)—"I will not stay under such circumstances."

Mr. Townsend—"We are willing to place you in the same circumstances as Mr. Dolan stood, and to extend to you any

courtesy we showed to him, but while we would not be disposed to interrupt you in making short observations, we think it right to say, that you have no right to address the Court. With regard to the application for the production of Murphy, the allegations which it appears he now declares his readiness to prove, are the same as those already adjudicated by the Inspectors General.—Those charges were at variance with the testimony given by others here, and alleged in the Memorial—for instance, Murphy stated his readiness to prove that there were two shots fired into the prison ward, on a certain occasion; it is true, that the charges formerly made by Murphy were not made after he was actually dismissed, but they were made after he got a notification of his dismissal. Murphy might have been produced for the complainants, and was not produced. Under all these circumstances, he is not the man from whom I would desire to receive information, and I am very indisposed to examine him."

Mr. O'Donovan observed, that when Murphy made his appearance here at an early stage of the proceedings, he was not examined, for this reason, that his testimony went to establish acts of cruelty, which the Commissioners did not then think themselves ordered to investigate; besides, there was never any inquiry made into the charges preferred by Murphy, or if there were an inquiry, it was very unsatisfactory, for it was made behind his back. The variation between the allegation of Murphy and the testimony of others, regarding the firing of the pistol, was reconcileable with truth, for M'Cloy had deposed, in his evidence, that the pistol had been fired once, and loaded the second time. Mr. O'Donovan said, that Murphy would prove many things. He would prove, amongst other things, the fact of the prisoners in the "Piggery," being so tormented with rats, and—

Mr. Townsend—"Oh! Mr. O'Donovan, no rats could get there, I examined these places and found them floored with brick."

Mr. O'Donovan—"Yes, sir, they have been floored with brick since the Investigation commenced."

Mr. Townsend said, that there was no doubt that the man who wrote the letter to Mr. Gregory, which had been read, had every disposition to tell *all* he knew at the time he wrote it."

Mr. O'Donovan replied, that he may not then have recollected facts, but that his memory now may serve him; he might now point out witnesses to be examined, which he could not then, for instance, officers since discharged.

Mr. Townsend—"Then why not produce him before."

Mr. Scott—"Will you allow me a word?"

Mr. Townsend—"Certainly a word."

Mr. Scott—"In Courts of Law it is a usual practice, even when a case is formally and deliberately closed, to examine a witness, whose testimony may be necessary for the attainment of justice."

Mr. O'Donovan said, that he wished to add to his own evidence, which was incomplete, in consequence of the interruptions given by Mr. Rowan.

Mr. Townsend said, he did not see why he should not allow Mr. O'Donovan to do so.

Mr. Rowan argued, with much eloquence and energy, against such a proceeding being permitted. The Inquiry for the complainants had been deliberately concluded; time was given to him to prepare his defence. Three weeks were given to him for that purpose; he did not want three weeks, he was prepared, with much less delay than that, to enter on his vindication, but after such a period had passed over, and after the case of the party was closed, was an attempt of this kind, an attempt to again open the case to be permitted; it was monstrous, and ought to be marked by the severest reprehension of the Commissioners.

Mr. Townsend said he wished to hear what Mr. O'Donovan had to say; if Mr. O'Donovan pleased, he could state the nature of his evidence, the Commissioners, after having heard it, would decide what course to adopt.

Mr. Scott protested against such a measure; what Mr. O'Donovan had to say should be taken as evidence; it was his right.

Mr. Townsend denied the right. The case, as had been observed, had closed; Mr. O'Donovan, an intelligent witness, was examined by his own Agent, and gave his evidence fully, and he (Mr. Townsend) believed he gave it sincerely; his examination was by his own Agent, and the case was closed by his own Agent, of course with his own concurrence. His (Mr. Townsend's) personal respect for the gentleman would lead him to accede to any fair proposition he would make, and therefore let Mr. O'Donovan state the nature of the evidence, but not on his oath, and the Commissioners will then decide whether they could receive it as evidence.

After a lengthy discussion, it was decided that Mr. Scott should write the nature of the evidence, and hand it to Mr. Townsend for decision; Mr. Scott accordingly handed the following summary.

"Mr. O'Donovan can prove that he told Mr. Rowan, that he "was interfering with the Religion of the people, and that Mr. "Rowan stated to him, that if he interfered with the rules and "regulations he would make, he would suspend him, and that he "did this in the presence of two witnesses.

"Mr. O'Donovan can prove that Mr. Rowan prohibited him from "preaching in Irish to the Roman Catholic prisoners.

"Mr. O'Donovan can prove that two Catholic convicts of the "names of Moriarty, and Catherine O'Hara, who stated that she "was his wife, and, not being considered as such, were prohibited "during Mr. Hollingsworth's time from any intercourse; but that "after the appointment of Mr. Rowan, Moriarty and his wife be-"came Protestants, and were, as such, indulged in conversation."

Mr. O'Donovan said, that he would also prove annoyance and inter-

ruption to have been given to him in the discharge of his duties since the Court adjourned. It would surely be right to inquire into this —and also, into the causes that made the prisoners who gave evidence here, be brought down from the first class, and locked-up in the ground floor.

Mr. TOWNSEND having read the summary said, that there was nothing contained in that summary, that he thought necessary; the greater part of the evidence had been given before. He would like to know had Mr. Rowan any objection to make to the examination in this case?

Mr. ROWAN said, that his case was truly pitiable. He was, if he might use the phrase, tossed between two horns of a dilemma, and was compelled either to refuse the application, and thus give an opportunity to his adversaries for misrepresenting him to the public, or to open his case again. Under all the circumstances, he would leave the matter to the decision of the Court.

Mr. TOWNSEND then said, that he saw nothing in the facts to make him alter his course of proceeding; he would on Monday, give his reasons in writing for refusing the evidence.

Mr. O'DONOVAN requested that the summary should appear on the minutes.

Ordered.

Mr. O'DONOVAN inquired if the Court would hear matter that had occurred since the closing of the Investigation?

Mr. TOWNSEND replied in the affirmative.

Mr. SCOTT suggested, that the facts alluded to might appear as satisfactorily in the course of the cross-examination.

Mr. TOWNSEND wished to be informed by Mr. Rowan, would he examine the Rev. Mr. Higgin as a witness—if Mr. Rowan did not examine him, the Court would ask him some questions?

Mr. ROWAN declined to answer the question then—indeed he could not. If, however, he (Mr. Rowan) did not produce him, Mr. Higgin could be examined after the defence had closed. He (Mr. Rowan) now wished to revert to a matter that had occurred at an early stage of the proceedings. Mr. O'Donovan had declared on a former occasion, that he would apply to Government to suspend him (Mr. Rowan). This was strange language to be used by an officer of the Institution. When he (Mr. Rowan) referred to the saying, he did it with a prospective intent, and for the purpose of ensuring good order, for the remainder of the Investigation, and to avert any necessity that might otherwise arise from exercising an authority unpleasant to him. He (Mr. Rowan) was *de jure*, governor, although under these charges. He (Mr. Rowan) wished that the Court would express an opinion on this subject.

Mr. TOWNSEND said, that he sat there not to give an opinion, and he could only interfere to preserve order.

Mr. ROWAN was anxious to know what opinion the Inspectors General, who ought to be disciplinarians, entertained?

Mr. TOWNSEND observed, that there was only one instance of deviation from good order since the Investigation began.

Mr. ROWAN said, "then I am to understand that I must, to protect myself from insult, use my own authority."

Mr. TOWNSEND—"You may draw any inference you please, Mr. Rowan, but I do not say what you assume."

Mr. O'DONOVAN prayed the Court, that the officers who would be examined as witnesses should retire, in order that in the course of their individual examination, they should not hear the evidence of each other.

Mr. ROWAN protested against such a proposition; surely it was conceded that they should hear all the charges against them.

Mr. SCOTT—"Aye, the *charges*, but not the *defence*."

Mr. TOWNSEND said, that he could not see any occasion for ordering them out. He would however order any of the officers who were merely witnesses, to retire. He would order those against whom no charges were made, but he would not order out of the room any of those who were charged in the evidence. He would direct any one against whom no charges were made, to retire.

DEFENCE.

Mr. ROWAN proceeded to the reading of a voluminous written statement, a copy of which it was understood, should be furnished to the prosecuting parties, if Mr. Rowan should require it to be recorded on the minutes.

After reading a considerable portion of this statement,

Mr. ROWAN said, that he had a great many documents, such as books, registers, reports, &c. &c. to produce, and he wished to prove them, but as he had already stated, he would examine no witnesses until he saw that the Court considered evidence necessary. He, however, wished to know, would the witnesses who would prove to these books, be subject to a cross-examination; according to his (Mr. Rowan's) view, a cross-examination was supposed to refer to matter arising out of the direct examination.

Mr. TOWNSEND said, that the cross examination was not limited, but that the cross-examination might be general, and applied to either case. It was following the practice of the Courts: if an Attorney or a Counsel, be brought forward for a plaintiff, to prove any case, or part of a case, the plaintiff loses his right of secresy, which the law allows, as the privilege of a client, and renders the Agent or Counsel liable to a cross-examination.

Mr. ROWAN—"If a witness be brought forward to prove merely a book on the subject, may he be asked any question? why he may be asked did he see the vane of the Post Office, yesterday, or any other question equally irrelevant?"

Mr. TOWNSEND—"Most certainly—the rule is specific, and cannot be deviated from, unless you show us very strong grounds that the cross-examination should be presented. There are two

facts regarding the production of books, with which it may be right to acquaint you.—*First*, the book must be proved by the person who kept it—*Secondly*, that person is open to a cross-examination; these witnesses having proved any documents for you, will be subject to cross-examination.

Mr. ROWAN—"There are many matters contained in these books, of secrecy and confidence between me, an officer of the Government, and the Government, and which the Government might not wish to be made public, and I beg that this fact may be borne in view; if this were a Court of Equity, these difficulties could not arise."

Mr. TOWNSEND—"We wish that the practice should be the same."

The COURT adjourned.

Defence—Second Day—September 25.

On the sitting of the Court, Mr. O'Donovan submitted to the Court a letter which he had received from Mr. Scott, the Solicitor, with a request that Mr. Townsend would read it aloud.

The following is a copy of the letter :—

"Reverend and Dear Sir,

"Having come to the determination of not again attending as "Solicitor for the prosecution of the Inquiry now depending at the "Richmond Penitentiary, against Mr. Rowan and the other Officers "of that Institution (unless under the terms mentioned) I think it "necessary to state to you my reasons for declining further at- "tendance.

"When I agreed to act as Solicitor in the place of Mr. Dolan, "(now in England) I conceived I had to conduct the proceedings, "under the responsibility and with the privileges attached to my "profession, but the proceedings of yesterday convinced me from "the beginning, that I not only had it not in my power, from the "regulations adopted by the Commissioners, to give to the Inves- "tigation any professional assistance, but that I ought not, by my "presence, give countenance to the idea, that it was conducted "with such legal assistance, as a Solicitor could give to such an "Investigation.

"The first proceedings of the Commissioners was the reading of "Mr. Dolan's letter to Mr. Townsend, stating, that he was informed "a man of the name of Bernard Murphy, formerly an officer of the "Institution, could give most important evidence if called upon, he "having been a witness of some of the cruelties alleged to have been "committed in the prison, and having actually preferred charges "against Mr. Rowan on the subject. The evidence of this man was "rejected, and the Commissioners decided he could not be exa- "mined, upon reasons which appeared to me to be not only not satis- "factory, but to be governed by more of strict legal forms and "niceties, than ought to be adhered to by the Commissioners; un- "der this impression, I got up to offer a few observations with a "view to shew that Murphy ought to be examined, and that his "evidence was most important, when I was immediately stopped "by Mr. Townsend, who told me I should not open my lips there; "and that he could not hear a word from me—that if I had anything "to say, I should suggest it to you, and you to the Court. And "thus Murphy's evidence was disposed of without their hearing "one word from the Prosecutors' Solicitor against the decision.

"The next proceeding was your offering yourself to give further "and additional testimony to that already given by you, and which "you were not before examined to; and this also was rejected, on "legal principles, and to this fact, as to your right to be examined, "and to add to your testimony, I would not be allowed to open my

" lips, or to offer a single argument or observation, and Mr. Town-
" send feeling the necessity of some excuse of so uncourteous a
" proceeding towards any professional man, read to me, either a
" letter or a written direction from Mr. Goulburn, by which the
" Commissioners were directed not to admit Counsel at all, and a
" Solicitor only to be present, upon the terms of not opening his
" lips—and Mr. Townsend stated, that such regulation was agreed
" to by Mr. Dolan, the former Solicitor for the prosecution, and
" acted upon by him. And thus, upon these two very important
" questions, I was not of the slightest use or assistance to you.

" I know not, nor can I judge upon what grounds, Mr. Dolan
" consented to go on with the Investigation, or what inconvenience
" or obstruction he suffered under such an interdiction; but if I was
" Solicitor for the prosecution when such an order was received
" from Mr. Goulburn, I certainly would not have agreed or sub-
" mitted to it, but would have advised the persons who preferred
" the Memorial to the Lord Lieutenant, unless they were allowed
" the assistance of Counsel and Solicitor, to abandon altogether the
" prosecution, and leave it to the Commissioners and the Officers of
" the Establishment to satisfy his Excellency on the subject. An
" investigation, which has now lasted for several months, and the
" nature of the proceedings, in every point of view, convince me
" that I would be justified in so doing.

" Hitherto, I am informed, the rule has been very strictly en-
" forced against Mr. Dolan; although it may be perhaps necessary on
" a direct examination, where leading questions might be asked;
" but now that Mr. Rowan has entered on his defence, and the
" cross-examination of Mr. Rowan and the Officers of the Establish-
" ment being of such vital importance on this Investigation, and
" such a rule not applying to cross-examination, I cannot, in justice
" to myself, as a Solicitor, or to you, Reverend Sir, or to the public,
" confide their cross-examination to you, a Clergyman totally unac-
" quainted with the forms of law, or the manner of conducting pro-
" ceedings, when under legal rules and regulations. I cannot con-
" ceive, Reverend Sir, why you were called on to direct a case in
" which the Public and the Government of the country are more
" interested than you are, and that the persons upon whose Me-
" morial this Inquiry originated, should be obliged to be represented
" by you.

" I cannot think it fair that you, an officer of the Establishment,
" under the control, and, if not removable at the will of Mr. Rowan,
" at least liable to be suspended by him, should be placed in the
" disagreeable, and I am sure, to you, a very unpleasant state of
" personal contention with him. He is a gentleman, who, from his
" manner of addressing the Court yesterday, I am quite sure you
" are not a match for on this Investigation; and that he has either
" had the experience of addressing himself frequently to such
" Tribunals, or educating himself for the purpose. At the Bible I

" would not fear to let you meet him, notwithstanding his great " success in Proselytising—but at a point of law, or in examination " of witnesses, with him it is ten to one against you.

" Under these circumstances, unless I am allowed to cross- " examine Mr. Rowan and his witnesses, according to the best of " my judgment, and without your interference, I will not attend on " Monday. I feel confident that, in the exercise of my duty as a " Solicitor, I would not misconduct myself, and I, therefore, will not " delegate it to another.

" I remain, Reverend and dear Sir,

" Your obedient Servant,

(Signed) " RICHARD SCOTT.

" 19, *North Earl-street*, 23*d Sept.* 1826.

" Rev. Mr. O'Donovan."

Mr. TOWNSEND said, that the Court would hear Mr. Scott, as they had Mr. Dolan, in remarks, but not in long speeches. The Court would exercise a courtesy towards him in hearing his remarks, occasionally. He (Mr. Townsend) inquired what Mr. O'Donovan wished the Court to do with the letter ?

Mr. O'DONOVAN replied, that he wished that the letter should be inserted on the minutes.

Ordered.

Mr. O'DONOVAN—" Are we to understand, sir, that your decision is final ?"

Mr. TOWNSEND—" Certainly ; we will admit Mr. Scott to here as Mr. Dolan did. Mr. Dolan agreed to this proposal, that he should act here as an Agent acts at a Court martial."

Mr. O'DONOVAN—" I would never have done so ; I did not know the nature of the proposition made by Mr. Dolan."

Mr. ROWAN—" That is a new line of argument. We have not heard that before."

Mr. O'DONOVAN—" I am placed in very distressing circumstances. I may say that I am deserted by my Solicitor, and driven to an alternative that reduces me either to forego the prosecution of this case, or to proceed under very great disadvantage if I be obliged to conduct it myself, for I am imcompetent. I know Mr. Rowan's talents, and his habits make him quite independent of professional assistance. I know also my own great incompetency. Will you allow my friend Mr. O'Dwyer to examine any witness or officer that Mr. Rowan may bring up ?"

Mr. TOWNSEND—" I do not think that we can permit him to examine orally."

Mr. O'DWYER—" I am sure nothing but the very peculiar circumstances in which Mr. O'Donovan is placed, would induce him to ask me, who have quite enough to do, to add to my other labours, the duty of an advocate ; still I would suffer, under the accumulation of laborious offices, rather than that the Investigation,

at this period, should be abandoned ; if, as Mr. O'Donovan tells me, he will not proceed on his own responsibility. May I inquire, if I should consent to act in the way Mr. O'Donovan proposes, will a note-taker be permitted to continue in the capacity that I have hitherto acted?"

Mr. O'Donovan—" I agree in all Mr. O'Dwyer says—no Solicitor would attend under the restrictions stated."

Mr. Townsend—" Mr. Scott has certainly said he would not attend."

Mr. O'Dwyer—" The truth is, that the Solicitors who would engage in this prosecution are not now in town, that is the reason Mr. O'Donovan feels the disagreeableness of the situation into which the decision of Mr. Scott, who is peculiarly competent, and the unavoidable absence of Mr. Dolan, have placed him.

Mr. O'Donovan—" No Solicitor would attend."

Mr. Townsend—" Mr. Scott has said he would not attend—it does not follow that others ———"

Mr. O'Donovan—" Mr. O'Dwyer has already explained that."

Mr. O'Dwyer—" With great respect, I would take the liberty of saying, that, under no circumstances can Mr. Rowan suffer by allowing me the latitude I require. The gentleman who is taking notes for Mr. Rowan is a Solicitor, and, of course, gives him his professional assistance.

Mr. Rowan—" I have such an opinion of my own case, that I am positive it will not suffer by the weakness of my own advocacy; I have therefore hitherto not employed, and will continue not to employ, either Counsel or Agent."

Mr. Townsend—" You know, Mr. O'Dwyer, we are not disposed to be unnecessarily strict, and you may be sure, we will not be less disposed to allow you as much privilege, in every way, as those who have hitherto advised Mr. O'Donovan."

Mr. O'Dwyer—" Permit me to say here, that Mr. O'Donovan did not imagine the rule regarding the agency of a Solicitor, would continue in operation when the cross examination on the defence would have commenced."

Mr. Townsend—" The object of the rule was to prevent leading questions ; if questions were asked that were leading, the witnesses would hear them, unless they were written down, it was to prevent their hearing them, that the rule, making it imperative to write them, was laid down."

Mr. O'Dwyer—" Yes, but if legal practice be abided by here, it is quite plain that the rule ought now to be relaxed ; leading questions are allowed in the cross-examination of a witness in a Court of Law, and to so great an extent is the principle carried, that if there be a point upon which their answers are required, they may be at once interrogated upon that, therefore no danger, can result from an oral examination. Under any circumstances the courtesy of showing the questions to Mr. Rowan before they

are put, and which Mr. Dolan admitted on the direct examination, need not now be pursued."

Mr. TOWNSEND—"Certainly not."

Mr. O'DWYER—"Then, if I merely write the questions and hand them to Mr. O'Donovan, and that he reads them, *verbum verbo*, is it not a waste of the time of the Court to make me write them, when I could not only save trouble to myself, but avoid delaying the Court; I really cannot see any difference with regard to Mr. Rowan in the two courses."

Mr. TOWNSEND—"Only that if we make a rule we should not depart from it, and should Mr. O'Dwyer be permitted to ask questions himself, he must regard it as an indulgence."

Mr. ROWAN proceeded to read his written defence, and in the course of his statement, animadverted with much severity upon the manner in which he had been treated by the public press; and, as an instance of the unfair and unfeeling course of conduct which had been pursued towards him, he requested that Mr. Higgin would read two Newspaper articles then before him, that gentleman accordingly read them, one was published in *The Dublin Evening Post* of Sept. 12th, in allusion to an article which appeared in *The Morning Chronicle*. The article in *The Morning Chronicle* ridiculed the statement of the French Journal, the *Etoile*, which teemed with the most atrocious falsehoods regarding him (Mr. Rowan) and the character of this Penitentiary; *The Evening Post* (Mr. Rowan argued) had made the article in the *Etoile* its own, by adopting it, and by supporting its representations against the statement of the *Chronicle*, impugning their accuracy; he (Mr. R.) was anxious to say that he completely exculpated Mr. O'Dwyer and Mr. Dolan from any participation in these statements; when the article in the *Etoile* appeared, Mr. O'Dwyer, with a feeling that reflected honor on him, immediately wrote him (Mr. Rowan) a letter, denying, in indignant terms, on the part of himself and Mr. Dolan, any share in the compilation of such atrocious falsehoods as had been circulated by the London publication from which the *Etoile* copied. Mr. Rowan here read the article from the *Etoile*.

"PARIS, SEPT. 18.—Our readers remember the article relative "to the ill treatment and torments inflicted on the Catholics de- "tained in the prison of the Richmond Penitentiary, to force them "to become Protestants. They also remember that several "English Journals, imitating the urbanity of some of those of "Paris, have treated us as libellers and liars. We have since "said that the *Dublin Morning Register* had confirmed the state- "ment of the *Truth Teller* The *Dublin Evening Post* has just "done it in a more formal manner. The Editor declares that he "knows the persons, and has seen the instrument of torture re- "ferred to. This instrument has the form of a helmet, with what "the *Evening Post* calls a tongue; this tongue is intended to enter "the mouth of the prisoner, to prevent his speaking or com-

"plaining. According to what the Irish journalist says, we may "expect, in the next publication, all the details, and we shall then "see whether Protestantism is as tolerant as M. Benjamin Con- "stant, represents it. If we were to judge by its acts since its "establishment in England, we should be obliged to acknowledge "that it is only tolerant while it is weak. Yet in spite of the "infamous conduct of the Protestant inquisitors of Dublin, they "do not less praise the English tolerance, and put up prayers for "the same system among us."

Mr. O'DWYER said, that the observations of the *Etoile* were clearly false and exaggerated, and had been formed upon very erroneous reports. The *Etoile* was, besides, wrong in saying that either the *Evening Post* or the *Register*, which papers he constantly read, had confirmed its former statements; neither of these Journals had done so. He (Mr. O'Dwyer) denied that the *Evening Post* had identified itself with the remarks of the *Etoile*, by the article just read, which Mr. Higgin had.

Mr. TOWNSEND said, that he had called at the Castle to inquire what time the application was made for the transmission of Carey and the others to the hulk. That process generally took a fortnight; in one instance it had been done in one day. The letter of Mr. Rowan recommending the transportation of Carey, recommended, at the same time, the transportation of four other prisoners. His letter bore date the 29th March, and another letter on the subject from him, bore date the 30th. Carey had sworn that he had been sent away on the 12th April. It was material to show then that the surmise that he was sent off to prevent him communicating with Mr. O'Donovan was erroneous. The letter was endorsed "Ordered," in the hand-writing of Mr. Gregory, who was not in the office for a long time; and it bore also, upon it, the hand-writing of a clerk now in the West Indies.

Mr. ROWAN again adverted to the Newspaper speculations upon the Inquiry, and stated the terms upon which a note-taker was permitted to be present. It was decided that these notes should be given to Dr. Murray. How could the *Evening Post* then have seen them?

Mr. TOWNSEND—"In point of fact Mr. Rowan is wrong. It was agreed that the notes should be given to Mr. O'Donovan, and not to Dr. Murray."

Mr. O'DWYER—"Although I have the pleasure of knowing very intimately, Mr. Conway, who is the Editor of the *Evening Post*, I assure you I never showed him the notes."

Mr. ROWAN—I pledge myself to you, Mr. O'Dwyer, that I make no allusion to you. I do not for a moment attribute to you any deviation from your promise—nothing would be farther from my intention than to do so, when I consider the very gentlemanlike and honorable feelings you have evinced since you came here. However, it appears strange, that the Editor of the *Evening Post* should assert that he had seen the notes."

Mr. O'DWYER—"I really cannot explain the circumstance,

unless in this way—I sent the notes of the proceedings of each day to Mr. Dolan, who caused them to be transcribed. Mr. Dolan, I know, lives in the neighbourhood of Mr. Conway, the Editor of the *Evening Post*. It is likely from the social qualities of these gentlemen, that they are not strangers to each other, and it may have been, and I dare say was, in some of those friendly communications, that Mr. Conway saw the notes."

Mr. ROWAN—" I shall again probably have occasion to refer to the matter." Mr. R. proceeded to read his statement, interspersing the written detail with occasional observations.

Mr. O'DWYER enquired whether Mr. Rowan would have his statement entered on the minutes?

Mr. ROWAN could not give any answer to that question.

Mr. O'DWYER—" I ask it for two reasons—first, in order that I should be able to satisfy myself, that anything you consider necessary to your vindication, should appear on the face of our proceedings. I have already repeatedly assured you, in our conversations, that I would be most happy to do all that I could to give a correct statement of your defence, and that in order to enable me to do so, I would feel obliged by your furnishing me with duplicates of any documents you might read. The next reason for my asking the question is this—if what you say now be mere statement, the Commissioners should not notice it on their notes. I see them writing occasionally, and I conjecture that they are placing some of your statements on their notes."

Mr. TOWNSEND—" Oh, no; we are not noting a word of them. We are only occasionally assisting our recollection of a fact, by making a memorandum."

Mr. ROWAN resumed the reading of his address before the Court adjourned.

Mr. O'DWYER required that Mr. O'Donovan should be furnished, by Mr. Rowan, with a list of the particular offence for which each convict, witness, or pardoned convict, examined on the Inquiry, had been sent here. It had been frequently asserted by Mr. Rowan, since this Inquiry had begun, that convicts were incompetent witnesses at law, and that the evidence of the persons who were chiefly examined against him, was not credible. Now he (Mr. O'Dwyer) thought he should have no difficulty whatsoever, in proving to Mr. Rowan, that he was utterly wrong in his opinion regarding the legal competency of these persons. It was for this purpose he required the list specified from Mr. Rowan.

Mr. ROWAN said he would give no list of the kind.

Mr. TOWNSEND could not see why it should not be given.

Mr. O'DWYER continued to press his application.

Mr. ROWAN interrupted him, and said he would not permit Mr. O'Dwyer to violate the understanding that existed, and to address the Court as he was doing.

Mr. O'DWYER said, that Mr. Rowan, by exercising what he called his right, would only cause delay to the Court, and trouble to him

(Mr. O'Dwyer). However, he would write his application, and Mr. O'Donovan should read it to the Court.

Mr. TOWNSEND—" Oh, no, no, we will not be so strict. We understand your application perfectly, and we do not see why Mr. Rowan should object to it, more particularly, when by making an application at the Castle, for any thing of the kind, it will be given at once."

The conversation ceased.

Mr. Rowan having resumed the reading of his address, continued to read it until the Court adjourned.

Defence—Third Day—September 26.

On the sitting of the Court, Mr. Townsend produced the papers from the Chief Secretary's office, regarding the transmission of Carey to the hulk, to which he adverted yesterday.

Mr. Townsend read from a written paper, which he had promised to exhibit on the day on which he acknowledged the receipt of Mr. Dolan's letter, his reasons for not acceding to the application contained in Mr. Dolan's letter, to the production of Murphy as a witness.

The following is a copy :—

"Mr. Dolan's letter of the 9th September, 1826 is read, and by " Mr. O'Donovan's desire, is entered on the minutes, in which " he informs us, that Bernard Murphy, living in the service " of Mr. Taylor, living near Balbriggan, can give material evidence, " suggesting that we should examine him for our satisfaction, and " stating, that as the case for the prosecution had closed, he should " not think himself justified in tendering him as a witness. In ad- " dition to this, it is now suggested, that his testimony relates to " acts of cruelty, and that, in addition to what has been already " sworn, on that head, he can prove that some of the prisoners who " had been gagged, handcuffed, and bolted, were found in that state " almost lifeless, and that one man was kept in solitary confinement " in a place so much infested with rats, that there was danger of " his being eaten by them, and we are strongly pressed that he " should be examined. It is, however, in our recollection, that this " Murphy, in an early stage of our Investigation, attended before " us on the requisition of the prosecutors, and desired to be exa- " mined then, as he was bound to go to another place on the busi- " ness of his master, but it not suiting the arrangement of the pro- " secutor's case to produce him at that time, he was informed that " he might go where he thought proper, and that if his presence " here should be again required, one of us (Major Woodward) was " acquainted with Mr. Taylor, and could procure his consent for the " purpose ; it appears, therefore, that the prosecutors knew of him " and his evidence, and of an easy mode of procuring his attendance, " yet they, deliberately, after full time for consideration, closed " their case, without having produced him, without having made " any further application to us relating to him, and without, as far " as appears to us, taking any other steps to procure his attendance. " We are clear, therefore, that, according to Mr. Dolan, who well " knew all those facts, the prosecutors are not now entitled to pro- " duce him ; as to our calling on him for our own satisfaction, the " facts already mentioned go a great way towards inducing us to " decline it ; in addition to this, it appears to us that he was at " one time the gardener of this Penitentiary, and during that time " acted occasionally as a warder—that having received notice that " he was to be dismissed on the 1st of June, 1825, he on the 10th

" wrote a letter to Mr. Gregory, in which he accused Mr. Rowan
" of most shocking cruelties to some of the prisoners there, and ' for
" the sake of humanity,' stated the instances to be, first, gagging,
" handcuffing, and bolting, some of them, in which state they
" were found lifeless—and second, firing a pistol two several times
" into a solitary cell, at a prisoner, for expressing discontent at not
" getting work. We think it no very good symptom of the firmness
" of Mr. Murphy, that he does not state anything as to the crimes
" for which the men were gagged, handcuffed, or bolted; and as to
" the pistol, it has been already proved to us, by more than one
" witness, produced by the prosecutors, and whose testimony has
" quite satisfied us of the fact, that there was but one shot, that it
" was fired into the cell, but not at the man, and was resorted to
" merely in the hope of subduing the prisoner, who was then in a
" state of open mutiny, tearing up the pavement of his cell, and
" flinging the stones with great violence—it appears, further, that
" though the gagging had happened several months before, his hu-
" manity never induced him to complain of it, until he had got
" notice that he was to be dismissed; and that even then, when the
" facts were more recent, and his resentment was at its height, he
" made no mention of the matter now suggested, relative to the
" rats; we, therefore, think, that he is not a person from whom we
" can hope for any satisfactory information as to the matters sug-
" gested, or any other connected with this Investigation, and ac-
" cordingly we have determined not to call upon him. Two other
" applications are made to us—first, that we shall receive some fur-
" ther evidence from Mr. O'Donovan. The Agent, Mr. Scott, has
" stated, in writing, the substance of this further evidence—his
" statement is in our minutes; it does not appear to us to be so mate-
" rial or relevant to the purposes of our inquiry, as that we should
" break through our rule to admit, and thereby, in the instance of
" a person so respectable, grant an indulgence which we could not
" afterwards, with propriety, either grant or refuse in any other;
" the first of them, in particular, must lead to an inquiry into the
" facts and circumstances referred to by both parties, in the expres-
" sions alleged, which would be quite unreasonable, after the prose-
" cutor's case had been deliberately closed, and the defence as de-
" liberately prepared. The other application is, that the officers
" should not be present during the statement of Mr. Rowan's case;
" as to this, if they be mere witnesses, the application is right;
" and therefore, as to any of them, against whom all complaint is
" relinquished, we will grant it, but those against whom any accu-
" sation is pending, have a right to hear all that passes, for the
" purpose of making their defence; and as to the objection, that it
" may instruct them for their examination hereafter, it is impossi-
" ble for us to know, whether they may not respectively rest their
" defences on the testimony of others; if we shall see any reason
" to think that any testimony which any of them may hereafter
" give, shall have been suggested by what may have passed before

" us we will endeavour to make the proper allowance for that, in " forming our opinions, but we think we cannot do more without " violating the first principles of justice."

Mr. Townsend also read the following statement, in reference to the application of Mr. Scott :—

" Mr. Scott's letter makes no change in our opinion; but it " makes it necessary for us to state our reasons more fully than " we have done. At our commencement, it was agreed by both " parties, to proceed without either Counsel or Attorney in the " room; we were then confined to the Memorial, which alleged a " variety of acts, as done for the purpose of making proselytes, " we proceeded accordingly for nearly a fortnight, at the end of " which time it was proposed on behalf of the prosecution, that we " should inquire into acts of cruelty and injustice, though not done " with any such view. This we declined, at that time, as exceed- " ing our authority, but proposed to apply for further instructions; " on doing so, we were directed by Mr. Goulburn to proceed as " desired; on this being communicated, it was contended that this " opened a new inquiry, not affected by the consent, and gave " either party a right to have Counsel and Attorney. This we " resisted, considering the new instructions merely as an exten- " sion of the former, and subject to all the same rules; after an " ineffectual attempt to introduce Counsel, Mr. Dolan, for the " prosecution, then stated three propositions, and said, he would " be satisfied with any of them; these were also submitted to Mr. " Goulburn, who agreed, *sub modo*, to the last of them; and, ac- " cordingly, directed that each party should be at liberty to have " a Solicitor, to advise and assist him, as Counsel do at a Court- " Martial, but not to address us; this was, on the following day, " communicated to the parties, who immediately agreed, knowing " that it was what had been understood, and the Inquiry proceeded " accordingly to the end of the Prosecutor's case. We then ad- " journed for some time, to enable the accused to prepare their " defence, without any objection to the plans on which we had " proceeded, or any proposal to alter it; we therefore conceive " we are bound to this mode of proceeding, by so long an " acquiescence of both parties, as makes it now unchange- " able, without some new ground; and we think that the absence " of Mr. Dolan, which we regret exceedingly, and the attendance " of Mr. Scott, (however respectable,) in his place, do not consti- " tute any such ground."

Duplicates of these documents were furnished to the Crown Solicitor, and to the two other Gentlemen who were taking notes.

Mr. O'Dwyer said, that he feared Mr. Townsend, in the statement of his reasons which he had read, for refusing to allow Murphy to be produced, and which would be inserted on the minutes, had unintentionally expressed an opinion as to the case of Mr. Rowan. The charge which Bernard Murphy preferred to the Government, was one that was actually now at issue, in this In-

quiry. He (Mr. O'Dwyer) feared that Mr. Townsend's words would be construed into an opinion, that from the circumstances of the time when the alleged acts of cruelty were committed by Mr. Rowan, that gentleman was justified in resorting to measures of severity.

Mr. TOWNSEND said, he did not intend to give any opinion whatsoever, upon the transactions in question. The Learned Commissioner then read the written statement again, and said that he did not think such a meaning could be drawn from his words, but that he would erase the words that were objected to.

Mr. O'DWYER said, that he thought it right again to call the attention of the Court to the application which he made yesterday, to be furnished with a list of the offences of the prisoners now in the prison, who had been examined here as witnesses. Mr. Rowan had said that these were incompetent witnesses—when the list was presented, it might establish not only what the law considered competency, but also credibility. There are many individuals, upon whom sentence of transportation has been passed, and who, nevertheless, are more competent witnesses than those on whom the law has visited a much lighter punishment. The legal maxim, *ex delicto non ex supplicio emergit infamia*, was one peculiarly applicable to the persons confined in this Penitentiary. In cases of perjury, or in all cases where the *crimen falsi* was on record, the convict was clearly inadmissible, but suppose in a case where the prisoner was confined here under the provisions of the Insurrection Act, the convict was competent, for the punishment was more infamous than the crime, and a conviction under the Insurrection Act, would not render a witness incompetent, although a conviction for treason would.

Mr. TOWNSEND agreed entirely with the arguments urged by Mr. O'Dwyer. It is held clearly that convicts under certain circumstances are competent witnesses. Baron Pennefather so ruled it at the last Cork assizes.

Mr. ROWAN said that a man, pleading his pardon under the Great Seal, was clearly entitled to be received as a witness; or a man having served the term of his confinement in England was admissible evidence, by an act passed in the last session of Parliament. With regard to the competency of convict witnesses, it was a curious fact, that in order to determine the fact, an administration or commission was sent out to New South Wales, and the matter was yet undecided. Mr. Rowan here produced a list which stated the offences for which some of the prisoners had been convicted, and which Mr. Rowan said was as complete as he could furnish it.

Mr. O'DWYER objected to the form of it, the statement was not sufficiently clear; the designation of the offence was too generic to satisfy him. He wished to have the particular offence defined. It was quite obvious, that in many instances, the law affixed the same penalty to an offence of great relative enormity, as to one

of a mitigated character. It was to enable the Commissioners to form an opinion as to the credibility of the witnesses, that the list was required. Since this inquiry had been instituted, Mr. Townsend had often expressed his admiration of the decent demeanour and apparent good conduct of a witness under examination; a list describing correctly the specific offence of that prisoner, might exhibit him in a view that would render his testimony as credible as that of any man, and assist the judgment of the Court.

Mr. TOWNSEND—Certainly, I think it ought to be given.

Mr. O'DWYER—It is clear, that the prisoners discharged from this Penitentiary are competent. They may in point of fact plead their pardon under the Great Seal, or the Act of Parliament, which gives the Lord Lieutenant, power to remit their sentence, because it is held that a pardon under the Great Seal, or pardon by act of Parliament, will restore competency.

Mr. TOWNSEND said, that if there were even a legal objection as to their competency, on the ground of the pardon not being granted, actually under the Great Seal, the Great Seal could be had in a day, on payment of some fees.

Mr. O'DWYER requested a copy of Smyth's committal.

Mr. ROWAN said, he rather thought that Smyth was one of those who did not come here on a committal, but on a letter, with instructions to report on his case after a short time.

Mr. O'DWYER replied, that what Mr. Rowan had just said, might be matter for inquiry. If prisoners are sent here on letters, and not on a committal, and that they afterwards are transported, will the term of their sentence of transportation be computed from the time of their being sent here?

Mr. TOWNSEND—Oh! most certainly, I think so.

Mr. ROWAN resumed the reading of his statement, and continued to do so, up to the hour of adjournment.

Defence—Fourth Day—September 27.

The COURT met at the usual hour. Mr. Rowan resumed the reading of his statement, and proceeded to comment upon the allegations regarding Nowlan, set forth in the Memorial. Mr. R. expressed his surprise at the circumstance of so distinguished an individual as Dr. Murray, ever transmitting to the Government, without inquiry into the truth of its allegations, a Memorial such as the one that caused this Investigation. It was not to be supposed, that Doctor Murray would transmit, without at least some inquiry of the Catholic Chaplain of this Penitentiary, a Memorial containing such atrocious allegations, and in the present instance, one of these allegations had been disowned by the Law Agent (Mr. Dolan) who had conducted the initiatory proceedings. If, on the contrary, these atrocious charges had not been inquired into, had he (Mr. Rowan) not much reason to complain of the cruelty with which his character and feelings had been wantonly assailed? If the Catholic Chaplain had been interrogated as to the facts, he must either have given his assent to them, or not. If he gave his assent to the allegation concerning Nowlan, what was to be said now, when his own professional friends were compelled to abandon it indignantly. If he did not give his assent to them, why should a Memorial so atrocious in its statements, be transmitted to the Government against one of its officers, who was endeavouring to discharge his public duty, faithfully and sedulously.

Mr. O'DWYER protested against such animadversions as those used by Mr. Rowan.

Mr. ROWAN asserted that Mr. O'Dwyer had no right there to address the Court.

Mr. O'DWYER said, that under such circumstances, he could not remain silent and hear the character and conduct of Doctor Murray so unjustly commented upon. What were the facts? The part which Doctor Murray had taken in the transaction, was overt. Was it to be supposed that Doctor Murray would condescend to enter into a Penitentiary cabal, or embark his high character in the issue of this or any other Investigation. Doctor Murray had received a Memorial from persons of whom he knew nothing. The Memorial contained a representation of acts of terrific atrocity, said to be perpetrated by the officers of a Public Establishment. Were there no inferential facts sufficiently manifest to support the spirit of these allegations? Doctor Murray did not convert his residence into a place of inquisition; but he did what became his dignity as an honorable gentleman, and his duty as a high dignitary of the Catholic Church, and he transmitted the allegations in question to the head of the Government, to be there investigated. Doctor Murray knew no more of the matter of inquiry

than his letter to the private Secretary of the Lord Lieutenant conveyed, and it was unfair to carp upon his name.

Mr. ROWAN explained; he did not speak of Doctor Murray in such language as Mr. O'Dwyer implied. He stated the opinion which he still entertains, that no memorial should have been transmitted to the Government by a person of Doctor Murray's station, until its allegations were inquired into.

Mr. TOWNSEND repeated an opinion similar to that which at an early stage of the proceedings he had uttered—namely, that Doctor Murray had acted with propriety in submitting those charges to the Government. Mr. Townsend added, that Mr. Rowan did not impute any thing disrespectful to the pure character of Doctor Murray, in the observations he had made.

Mr. ROWAN produced the helmet, or mouth-piece, which had been used, as was proved in evidence; it was broken in pieces, and had been found (Mr. Rowan stated) in this shattered state, amongst the old iron of the prison—a small piece of it was wanting. Major Woodward proceeded to the store keeper's office, to weigh it, and on his return stated, that it weighed twenty ounces.

Mr. ROWAN in rebutting the charge made by Capper, as to his refusing to allow him "an approved Catholic book," stated, that he was justified in circulating, amongst the prisoners of every Religious persuasion, books sanctioned by the proper authority. No books were to be admitted here, but those sanctioned by the Established Church, and by the Society for Promoting Christian Knowledge, according to a letter from Mr. Secretary Grant, dated 6th February, 1820, in reply to one from the Rev. Mr. Higgin, of date the preceding day, and which reply was addressed to Mr. Hollingsworth, the former governor. The admission of the books, sanctioned by the Society for Promoting Christian Knowledge, for the use of all prisoners, was ordered in this letter. No books but those thus sanctioned were ordered—and this set at rest, the charge for preventing the reading of an approved Catholic school-book. There were many controversial works, (added Mr. Rowan) in both the Catholic and Protestant Religion, which were approved; and which, nevertheless, he would not circulate.

Mr. TOWNSEND thought that Mr. Rowan was extending the meaning of that letter of Mr. Grant. Mr. Grant certainly never intended that the Catholic prisoners here, should get no books, but those permitted by the Society for Promoting Christian knowledge.

Mr. ROWAN said, that he thought Mr. Grant's letter conveyed such an intention.

Mr. TOWNSEND entirely differed with him. The wording of the letter might, by constraint, allow such an interpretation; but he (Mr. Townsend) was sure that Mr. Grant never meant it.

Mr. ROMAN resumed the reading of his statement, in the course of which he produced several documents, purporting to be copies of letters; one of these was an order preventing Mr. O'Donovan from preaching in Irish to the convicts.

Mr. ROWAN said, that these letters may not be correct copies, for his avocations were so many, and his time so incessantly occupied, that he scarcely had time to copy a letter; but the variations, if there should be any, would be so trifling, as not to affect the sense, and he would depose on oath, that the copies were correct, to the best of his knowledge and belief.

Mr. O'DWYER protested against any letters being produced that were not accurate copies to the very phrase; a great deal of meaning often hangs upon a phrase. With regard to any letters of Mr. Rowan in Mr. O'Donovan's possession, he was most willing to produce them, and if he could not find them, if they were destroyed for instance, he would on all occasions willingly affirm on oath the fact of his inability to submit them. Either the letters Mr. Rowan would produce were accurate or incorrect, if incorrect they surely could not be called copies.

The COURT adjourned at the usual hour.

Defence—Fifth Day—September 28.

The COURT sat at eleven o'clock, and Mr. Rowan proceeded to resume the reading of his statement.

The Rev. Mr. HIGGIN, in the course of the reading of the statement, said, in allusion to some reference made to the tract entitled "the Difference between Protestantism and Popery"—that he had bought it at Tims's shop, in Grafton-street—that he merely read the title, but did not go through it. If, however, he pleased to keep it in circulation amongst the Protestant prisoners in the Penitentiary, he thought he had a right to do so. He would also have a right, he conceived, to distribute every publication published by the Society for the Suppression of Vice, of which all Protestant Bishops and Archbishops in Ireland are members.

Mr. ROWAN produced, amongst some other letters of thanks, &c., a letter alleged to be from Connell, a liberated convict, whose name is to the Memorial, dated from Cork.

Mr. ROWAN argued upon the admissibility of this letter as evidence; it was most important, inasmuch as it conveyed to him (Mr. R.) the most lively expressions of his (Connell's) gratitude for the kindness and humanity he had experienced here, and it appeared by the Memorial, that his signature was attached to it

Mr. O'DWYER said, that the complainants were not disposed to make frivolous objections, but it was a proposition too absurd to entertain, that a letter should be received, and taken as the letter of a man, who, it would be proved, could not write at all. Would Mr. Rowan assert that Connell had written the letter in his hand, or would he say that Connell could write at all?

Mr. TOWNSEND said, that Doctor Quarry was a most respectable gentleman; any one who knew him was perfectly satisfied of his truth, and there could be no objection that Doctor Quarry, who, as it appeared by an explanation given at an early stage of the proceedings, had been in communication with Connell and his wife, on their liberation from the Penitentiary, should inquire about Connell, and ascertain his testimony. Mr. O'Dwyer knew enough of Cork to be convinced that Doctor Quarry was a gentleman of high character, and one even whose mere opinion might be taken with perfect security on any subject.

Mr. O'DWYER said, that he was quite sure Doctor Quarry would not deliberately misstate any fact.

Mr. ROWAN adverted to the objection that had been made at an early stage of the proceedings, to a letter from Doctor Quarry to him, because it happened to be written in Dublin, after a communication with him (Mr. Rowan.)

Mr. TOWNSEND said, that there would be no objection to leaving the inquiry about Connell to Doctor Collins, the Catholic Vicar-General, and to the Protestant Archdeacon.

Mr. O'Dwyer observed, that to no one of the gentlemen could there be any objection.

Mr. Rowan said, that he saw no occasion to agree to any thing of the kind. No inquiry into the fact could, in his opinion, outweigh the strength of that letter. The kindly feeling that dictated that letter, might now be removed. He (Mr. Rowan) would, on every occasion, state, on oath, that no letter of those he would produce had been got up for an occasion, but had been a genuine and *bona fide* letter. In the course of the reading of the documents, Mr. Rowan said, that the letter of Mr. Manning, which he would produce, ought to have very great weight, as Mr. Townsend had remarked, the feelings which a witness felt in giving his testimony, ought to be considered. Mr. Manning had expressed resentment towards him (Mr Rowan.)

Mr. Townsend observed, that the object of interrogating a witness as to his feelings towards any individual, was not to impeach his general accuracy, but to exhibit his feelings on a particular subject.

Mr. O'Dwyer added, that if a man, candidly and without design, acknowledged the existence of those feelings, in a certain degree, it was scarcely to be supposed that his solemn evidence would not be free from their influence. A witness might consider himself injured, and at the same time might be endowed with that moral strength which would enable him to rise superior to vindictive feelings.

Doctor Orpen (physician to the Institution, who was present constantly during the Inquiry) said he knew that many of the things that he had heard deposed here were downright perjury.

Mr. Townsend said, that would be a very material matter to prove indeed; of course, Mr. Rowan would examine him to convince tho Commissioners of the fact.

Mr. Rowan, in allusion to a declaration contained in a letter formerly addressed by Mr. O'Donovan to the Irish Government, in reference to the conduct of Mr. Hollingsworth, the late governor, where he said that a committee ought to be appointed to superintend this Institution, instead of committing it to the management of an individual; observed that it was strange how similar were the opinions then entertained by Mr. O'Donovan, and those now held by the prisoners here. There is now an impression amongst the prisoners, it probably would not be difficult to say how it had been created, that the Penitentiary was in future to be managed by a committee. The notion of governing such a prison as this by a committee, he (Mr. Rowan) was prepared to prove, was a most delusive error. A foreigner who lately saw this Penitentiary, exclaimed on observing the admirable arrangements of it, that the peculiar feature in its government that struck him as being beyond all commendation was, that the Institution was *under an individual*—"they have been tried under a Civil Government, and

they have proved bad subjects," said the foreigner, in speaking of the prisoners—"let them be now tried under a despotism."

Rev. Mr. HIGGIN, (Protestant Chaplain) said, he would not give much for the opinion of that gentleman!

Mr. ROWAN, in allusion to the charge of changing the Religion of the prisoners, by means of the dietary, said, it was of course abandoned, it was not mentioned in the specification.

Mr. O'DWYER denied the propriety of such an inference. The charge alluded to was not at all abandoned. It did not at all follow because the specification did not name all that was proved, that all it did not name was to be considered unproven.—The specification had been evidently drawn up in a hurry.

Mr. TOWNSEND said, that the duty of the Commissioners would be, to report upon the charges in the Memorial, individually; and to state what evidence they thought had been adduced to sustain them.

Mr. ROWAN produced, in the course of his statement, several of the instruments of punishment, which had been charged as being severe. A description of them will be found in the Appendix.

Defence—Sixth Day—September 29.

The Court met at the usual hour, and Mr. Rowan resumed the reading of his statement.

Mr. TOWNSEND said, that in consequence of what had fallen, yesterday from Dr. Orpen, regarding certain testimony that had been given here, it was the intention of the Commission to examine him, for their own satisfaction.

Mr. O'DWYER said, that of course it was a matter understood, that a witness produced under such circumstances, and that witness an officer, and necessarily *ex parte* in some degree, would be subject to the cross-examination of the prosecutors.

Mr. TOWNSEND replied, that that was a matter for consideration. However, it may be assumed, that on the occasion, the Court would act as they had done in similar instances; and, after they had asked him some questions, the parties would be at liberty to interrogate him.

Mr. ROWAN resumed the reading of his defence, which occupied the Court until half-past two o'clock; at the conclusion, Mr. Rowan said, that he had produced a variety of documents, all of which were capable of being satisfactorily proved. If, after the statement which he had made, and which he considered a complete refutation of the charges brought against him, the Commissioners required any evidence to satisfy them, they had it in their power to require it, and if the Commissioners would say what witnesses he ought to produce, he would produce them, but he did not think it would be consistent with the high tone of defence which he had assumed, to enter into any refutation, other than that he had made.

Mr. TOWNSEND—(to Mr. Rowan)—In going through your statement, you observed upon much matter not in the evidence—now, either you ought not to have read and stated substantive facts, unless you were determined to support your statements by proof, or you should, in conformity with legal practice, have confined yourself to opposing the case at the other side. It is for you to decide whether there is any consistency in the course you have adopted, I certainly have known several take that course and not examine witnesses, but merely confine themselves to observations upon the conduct of the opposite party; but you must recollect, that a Counsel, having stated a new fact, loses his privilege of closing his case, and lets in the other party to reply.

Mr. ROWAN—I have not stated any new facts—the facts I have stated are the same, only under a very different aspect from those in the case of the complainants.

Mr. TOWNSEND—Why, Mr. Rowan, you have not even confined your observations to a statement of inferences, arising out of the evidence at the other side, but you have stated direct contradictions to them.

Mr. ROWAN—I would sooner, under all circumstances, close my

case, than encourage a further protraction of it. If I call witnesses, it is impossible to say, judging from the tone and temper that have marked these proceedings, when this business may end—I have no dread of calling witnesses, or fear that they would not be fully able to bear out my statement; the talents, unimpeached credit, and knowledge, of the witnesses whom I could produce, would speak incalculably in my favor, and would confirm the propriety of the course which I have always adopted, and which has been, ethically and philosophically, that best suited to the management of such an Institution as I govern. I would be obliged by the Commissioners considering, deliberately, the course best to be adopted. The parties will all retire for a short time.

Mr. TOWNSEND—Very well, we will consult. The gentlemen will please retire, and leave us to ourselves.

The room was accordingly cleared, and at the expiration of half an hour, the parties were recalled.

Mr. TOWNSEND—Mr. Rowan, we have consulted, as to the application you made to us, and we have come to the decision of not giving you any opinion on the mode of managing your defence—we have been unanimous in our conclusion. Your statement has consisted of two things—observations on the evidence at the other side, and a statement on these facts that requires no proof; there is, also, in your defence or address, a statement of facts that directly impeaches the evidence at the other side, and which, it is to be supposed, you can confirm by evidence. Now, we think it is absolutely necessary for you to prove as much of the latter as possible—it is now late, too late, indeed, to proceed further—you can take time until Monday, to consult your advisers, and consider what you will do.

Mr. ROWAN—I am ready now to give my decision, which I think is not likely to be altered. If the Court desire any evidence in these books, they may be authenticated in a moment; the Court may order them to be proved, and I, as well as all my officers, are ready to submit to their direction.

Mr. TOWNSEND—You can derive no benefit from the books, unless you prove them, and you appeared to contradict, from them, certain parts of the testimony at the other side.

Major PALMER—You have contradicted, in your statement, many things—it is now a contest of veracity. Prove those things to be false, that your statement, from your books, has impugned.

Mr. TOWNSEND—We will not now press you, Mr. Rowan—let us know, on Monday morning, what you will do.

The COURT adjourned.

Defence—Seventh Day—October 2.

The Court met at the usual hour. Mr. Dolan, having returned from England, attended this day as Agent.

Mr. DOLAN said, that on reading over the notes of the proceedings during his absence, he found two matters, upon which he begged the Court to allow him to make a few observations. The first was, that Mr. Rowan, in reading his defence, had commented, in rather strong language, on the conduct of Dr. Murray, in forwarding the Memorial to Government. Now, he (Mr. Dolan) would only observe, that, painful as the situation was, in which Mr. Rowan then stood, with his character and conduct so canvassed and scrutinized—if those proceedings should be followed by the final and complete exculpation from the charges alleged, and his innocence should be most clearly demonstrated, it would not give even to him (Mr. Rowan) more unmixed pleasure than it would to Dr. Murray. He (Mr. Dolan) could take upon himself to represent Dr. Murray's feelings to this extent, that nothing would give him greater pleasure than to find that all the allegations contained in the Memorial, were wholly destitute of foundation.

Mr. TOWNSEND said, that Dr. Murray had acted only as he should have done, in forwarding the Memorial, and that the Commissioners would take care to embody that opinion in their report.

Mr. DOLAN said, that the other matter related to himself, personally, and on that account he asked the indulgence of the Court and the attention of Mr. Rowan, for a few minutes. He found, that in answer to a complaint of Mr. Rowan's, relative to an article in the *Evening Post*, where the Editor states that he saw the notes of the proceedings, Mr. O'Dwyer stated that he could only account for it, by supposing, that as he (Mr. Dolan) was intimate with Mr. Conway, the Editor of that Journal, Mr. Dolan might have shown them to him. Now, he (Mr. Dolan) begged to say, that he never had shown the notes to Mr. Conway, or to any person connected with any Public Journal; reference had been made by Mr. Rowan to an article in the *Truth Teller*, copied into the *Etoile*—it was painful to be obliged to deny having written such a paragraph as that contained in the *Truth Teller*.

Mr. TOWNSEND said, the Commissioners had no doubt that Mr. Dolan had no connexion whatever with the paragraph alluded to.

Mr. DOLAN said, that when he first saw the article, he addressed a note to Mr. Rowan, disclaiming it, which, however, he did not forward, as his friend, Mr. O'Dwyer, told him he had written a note to Mr. Rowan, denying, on his part, as well as on his own, any participation in the writing of that paragraph. Mr. Dolan said, further, that with respect to all the various publications relative to this matter, in the various newspapers, he was in no way,

directly or indirectly, connected with any one of them. As to the paragraph in the *Evening Post*, it was true he had the pleasure of being acquainted with Mr. Conway, and that he had, in conversation, mentioned to him the leading facts, proved upon this Inquiry, and it was from this circumstance only, he could account for Mr. Conway stating he had seen the notes; and, perhaps, as he wrote, not in the first person, but in his editorial capacity, he felt himself justified in using the expression.

Mr. ROWAN said, he fully acquitted Mr. Dolan of any participation in, or connexion with, any of the paragraphs in question, and that from the commencement of the Inquiry, nothing could be more correct or proper than his conduct and demeanour had been. Mr. R. proceeded to make some observations upon the manner in which the notes taken for the prosecution were to be disposed of, and that it was agreed they should be given up to Dr. Murray.

Mr. TOWNSEND begged to set Mr. Rowan right—it was distinctly understood that the notes were the property of Mr. O'Donovan.

Mr. O'DWYER—"Aye, and it is distinctly understood between Mr. O'Donovan and me, that the notes are at my disposal. I have assumed a very unpleasant task for the sake of public justice. I knew nothing of the parties whatever, and it is not likely that I would inflict such a duty upon myself as I have performed, if all record of the proceedings here were to be suppressed. In coming here, as I have already said, I attend as a disinterested advocate of public justice. I simply promised that I would not give publicity, in any manner, to any information I might derive by attending here, if interdicted by Mr. O'Donovan. We even stipulated so minutely, that I mentioned my engagement of secrecy only referred to the evidence I heard here."

Mr. ROWAN said, that his impression was that the notes were to be given to Dr. Murray.

Mr. TOWNSEND inquired if Mr. Rowan were prepared to give his reply on the question which was asked him on Friday?

Mr. ROWAN replied, that he had given the matter of the reply all the consideration he was capable of, and that his opinion was unchanged; by the course which the Court had pointed out, there was additional embarassment thrown on him; his opinion was that which he held on Friday, and that was, that having taken a view of the evidence given by his prosecutors, and in reviewing that, having made a statement which could be verified, as the Commissioners had a power of substantiating every allegation therein contained, his opinion was, that he should be asked to meet such part of the evidence of the prosecution as the Court thought had been sustained by proof: however, his opinion was no matter.

Mr. TOWNSEND said, that the Court, in this matter, would be guided by his opinion, or the opinion of those whom he consulted.

Mr. ROWAN remarked, that Mr. Townsend had said, before the Cork Assizes, that after evidence for the prosecution had closed, he

would condense it, and extract those particulars which he thought had been proved.

Mr. TOWNSEND denied that he had ever said anything of such a tendency; he would not do anything that would put him into the situation of Mr. Rowan's adviser.

Mr. ROWAN replied, that even if Mr. Townsend had said it, his present determination on the subject, was conclusive. There was an investigation at one time, into the conduct of his predecessor, and he (Mr. Rowan) had been informed that the course which he now sought for, was the one pursued by the Commissioners.

Mr. TOWNSEND replied, that Mr. Rowan was entirely misinformed. He (Mr. Townsend) saw, on Saturday, the report which he (Mr. Townsend) made on that investigation. The charges were made by three parties, and they were material accusers, the governor and the two chaplains. The evidence for the prosecution was first heard, and then the defence was regularly proceeded on.

Mr. ROWAN said, that he was advised by Counsel, and he mentioned, it with great deference to the Court, that the course which he requested the Court would pursue, was the proper one.

Mr. TOWNSEND said, that in going through the Memorial and allegations, the Commissioners would, if they were not sufficiently satisfied, call such evidence as may be necessary to satisfy them.

Mr. ROWAN strongly protested against that proceeding, it might leave him an entirely new case to rebut.

Mr. TOWNSEND said he really could not help that—it was not to be expected that the Court would make his defence. How unreasonable it would appear to call evidence, and to call it only for the defence.

Mr. ROWAN said, he only wanted theCourt to name the matters that required explanation. There was an immensity of evidence given by the prosecution mere hearsay and belief. How was he to apply himself to rebut hearsay and mere belief evidence; or to rebut those facts which he had already disproved in his statement, and which statement the Commissioners had it in their power to verify.

Mr. TOWNSEND expressed his disinclination to say any more on the subject. Let Mr. Rowan determine what he would do. With regard to the examination of witnesses by the Court, it was right now to say that the Court would allow neither of the parties to ask a question. The Court would receive a suggestion, and act upon it, probably; and also would take any explanation that may make evidence more clear, than was yet before them. Mr. Townsend here read a letter which he had received from Henry Manning, a witness examined at an early stage of the Investigation, formerly storekeeper in the Penitentiary, denying some imputations which he had heard that Mr. Rowan made against him; and praying that he might be examined to disprove them. Mr. Townsend requested that Mr. Dolan would intimate to the writer, that the Court did not think it necessary to examine him again.

Mr. ROWAN expressed great indignation at the individual ad-

dressing a Judge, *pendente lite*—such a proceeding was most improper.

Mr. TOWNSEND said, that he really could not see any impropriety in the act.

Mr. ROWAN recurred to his application, that the Court should distinguish for him the parts of the evidence which they were to be uncontradicted satisfactorily by his statement.

Mr. DOLAN observed, that Mr. Rowan only wanted the Court to give him instructions for proofs.

Mr. ROWAN said, that his object was as much for the purpose of expediting the termination of the Inquiry, as for any other purpose. The Establishment was fast going to ruin—the seed of its destruction, he feared, was sworn. The observation made on the last day, by Doctor Orpen, proved, sufficiently, the circumstances in which he was placed, and would show the difficulty of eliciting truths. In a Court of Justice, imputing perjury would—

Mr. DOLAN suspected if the gentleman had made the charge, in what Mr. Rowan called a Court of Justice, he would draw on him the severe reprehension of the Court.

Mr. ROWAN requested Mr. Dolan would not make any such observation on Dr. Orpen; he was a gentleman of respectability.

Mr. DOLAN begged Mr. Rowan would not impeach the credit of his witnesses, who were as worthy of belief as any gentleman of respectability, no matter who he was.

Mr. ROWAN protested against Mr. Dolan opening his lips there. With regard to the subject of his application then, he (Mr. Rowan) supposed he should use his own discretion.

Mr. TOWNSEND replied, that Mr. Rowan might do just as he pleased.

Mr. ROWAN wished to inquire of Mr. O'Donovan, would he conform to the request made of him in the notice with which he was served, as to the production of the several letters therein named.

Mr. DOLAN admitted the service of the notice, but would not produce the letters.

Mr. TOWNSEND said, if the letters were not forthcoming, Mr. Rowan must only prove their existence by secondary evidence.

Mr. DOLAN said, that there was no unwillingness in point, of fact, to give up those letters; and also copies of the correspondence between him (Mr. Rowan) and Mr. Todd, relative to the cruelties in the prison; and his object in refusing to produce the letters named in Mr. Rowan's notice, was to throw on Mr. Rowan the necessity of producing his letter book, as he could not offer to the Court copies of letters.

Mr. TOWNSEND did not think Mr. Dolan's object would be attained by such a course. Mr. Dolan would certainly have a clear right to see any particular letter, but no right to examine letters foreign from the particular subject of his search. Unless under one or two Acts of Parliament, a Corporation need not produce their books, unless to a member of the Corporation.

Mr. DOLAN replied, that this letter-book, however, was a copy of the correspondence of the officers of this prison; of which the strict ends of justice, that in a Court of this kind ought only be pursued, as consistently as possible with a course of law, without excluding that evidence that is not legal, required the production.

Mr. ROWAN indignantly denied the right to see his books—who could have told Mr. Dolan of this book, if it existed—it was not to be borne. Mr. Dolan could only have heard of it by means of a betrayal of confidence by an individual whom he (Mr. Rowan) would not name, and whom he (Mr. R.) should be sorry to suspect.

Here Mr. Crofton (the Secretary to the Institution) came forward.

Mr. CROFTON—I hope Mr. Rowan imputes nothing to me. I have kept the book, but I never mentioned to any one that I kept it; and I desire to be examined on my oath to the fact.

Mr. DOLAN—Then there is a book of the kind.

Mr. ROWAN—I did not say you did mention the circumstance. I should hope no officer here would be guilty of such a breach of confidence. My books are open as the day-light to the Commissioners, but not to them (the Prosecutors.)

Mr. DOLAN—Well, we'll examine your officers, and get the facts out of them.

Mr. TOWNSEND adverting to the course which Mr. Rowan said he would adopt, of not examining witnesses to prove the counter facts alleged by him in his statement, rapidly went through several parts of the statement, and, in opposition to these, set forth various circumstances of a contrary tendency, that were strongly deposed to in the evidence for the prosecution. Mr. Townsend, at the conclusion of each fact, addressed Mr. Rowan thereon, in reference to his statement, in these words—"Does not that want to be proved; or, are your simple assertions to outweigh this testimony given on oath?"

Mr. ROWAN—On my oath, I do not think a single word they said required to be disproved.

Mr. DOLAN—Well then; let Mr. Rowan close his case.

After a considerable deliberation, Mr. ROWAN, by directions of Mr. Townsend, undertook to apply himself specifically to the charges. Mr. Rowan commenced with the fourth charge in the specification.

Robert Wood sworn and examined by Mr. Rowan.

Is a school-master here; knows Capper, who was examined here; recollects Capper being on bread and water here.

Mr. TOWNSEND—"How long?"

Witness—"I suppose for five days."

Mr. ROWAN—"I will examine him."

Mr. DOLAN objected to Mr. Rowan's practice of asking leading questions.

Mr. ROWAN said, if Mr. Dolan interrupted the proceedings, he would sit down.

Mr. TOWNSEND did not see what interruption one observation

could cause, and begged Mr. Rowan to recollect what the rule was when Mr. Scott was here. They denied his right, but would be willing to allow him, by courtesy. He (Mr. T.) would not listen to a speech, but to a single observation—it was not worth while to object perpetually.

By Mr. Townsend (at Mr. Rowan's request)—At the time Capper was confined on bread and water, there were a variety of causes—first, an insolent answer that he gave to witness, when at school—the other was, that he had certain implements of that kind in his clothes.

Major WOODWARD—"What kind?"

Witness—Something in the nature of a saw; and for having them in his jacket, and tearing his jacket for the purpose of concealing them; the insolent answer was, that he told witness he would not pay attention to anything witness said, or anything said in the school. There was no explanation at the time that answer was made, about a passage in the Scriptures; there was a conversation between the men in the division, not in the school, whether James and John, the Apostles, were sons of the Virgin Mary by Joseph, or by a former wife, and they applied to witness, who refused to give any answer, but referred them to the 1st chapter of St. Paul to the Galatians, 19th verse. It was not on that day Capper was punished, nor was there any disagreement about it; has never given any tract or tracts to Capper, or any other Roman Catholic, on controversial subjects; witness has had the loan of tracts here, but has never had any of his own, and has never at all circulated them.

Cross-examined by Mr. Dolan, through Mr. O'Donovan.—Has seen a little ivory crucifix with Capper, which Capper produced here; has explained the words of the Scriptures; the only explanation witness recollects to have given to Catholic prisoners, was once; the men were reading in the kitchen; Capper was not there; they were reading the 1st epistle to the Corinthians, chap. 3, v. 13; M'Cormick said to witness, that he wished for his (witness's) opinion; witness refused, it being contrary to directions; Connell pressed for an answer from witness, if not as a schoolmaster, as a private individual, and witness gave it; witness has been directed by Mr. Higgin, and by the governor, when he is teaching the reading the Scriptures, to explain the meaning of the words only, as they stand in the English dictionary, to avoid all points of controversy between the two Churches, and to keep entirely clear from any thing like proselytizing; these are substantially the directions given by the governor to witness, the day he became schoolmaster here; the directions were given verbally.

Mr. TOWNSEND—Have you any objection, Mr. O'Donovan, to the directions given by Mr. Rowan to the schoolmaster?

Mr. O'DONOVAN—Yes, sir, I object to the reading of the Scriptures at all.

Mr. TOWNSEND—Did you ever make any objection to Mr. Rowan?

Mr. O'Donovan—Never sir, for if I did, Mr. Rowan would suspend me.

Mr. Townsend—I declare Mr. O'Donovan, I have not, since I came here, been able to discover any symptoms of fear of Mr. Rowan, on your part.

Examination resumed by Mr. Townsend.—One day Mr. O'Donovan came into the school, for the first and only time; witness was explaining the meaning of the word *Tabernacle*. Mr. O'Donovan objected to it, and spoke very warmly on it, and in such a manner as hurt witness's feelings; witness reported it; witness accounts for the number of conversions here, by the reading of the Scriptures; witness thinks the reading of the Scriptures brings with it a clearness that shows many things done in the Church of Rome, to be wrong; would be unwilling to give any other cause, but thinks, on his oath, the reading of the Scriptures, is the primary cause.—Witness is a member of the Church of England.

Mr. Dolan—Are you a methodist?

Mr. Rowan—Do not answer that question.

Mr. Townsend—You have no right, Mr. Rowan, to give directions here.

Mr. Rowan—I submit that I would have a right to say it through Counsel, if he were here,

Mr. Townsend—You would not, sir. Are you a methodist?

Witness—I have attended their meetings, and heard them preach.

Mr. Townsend—I have heard methodists several times preach, and indeed I have generally heard the same doctrines as I hear now from the Protestant pulpits; there is, however, one difference in the business, Clergymen of the Church of England, are, generally, gentlemen, and methodist preachers, are tinkers and tailors, and such fellows as are not more competent to teach, than my footman; at least those I have heard, are of this description.

Mr. Rowan—I am not a methodist; but if there be persons of that persuasion here, who believe, conscientiously, in their faith, they may be offended at such imputations against their creed.

During these observations, Major Woodward made several attempts to interrupt the line of examination.

John Suter sworn and examined by Mr. Townsend.

Remembers M'Laughlin being removed from the first class to the third, for disobedience of orders. The disobedience of orders was this—witness opened the door of M'Laughlin's cell in the morning, and M'Laughlin, then being a Protestant, told witness he wished to see Mr. O'Donovan; witness asked him for what purpose; M'Laughlin replied, for the purpose of changing his Religion; witness told him that the better way for him was to go through the proper form, and to send first for the governor; witness thinks he (witness) then told him that the governor would not object to his changing, if he went through the proper form; and M'Laughlin then told witness he would not obey the regula-

tions, and witness then locked the door. Witness mentioned this in his report; and, at breakfast time, when witness went to open his door, he (M'Laughlin) gave witness a great deal of abuse; M'Laughlin said the governor had no right to interfere with his Religion, or to make any rules concerning it; he (M'Laughlin) also said, that no person had any authority to do so, but Mr. O'Donovan or Mr. Higgin. There was no more conversation then, but in the course of the day the governor and Mr. Higgin came up to M'Laughlin; the governor asked M'Laughlin, in witness's presence, what M'Laughlin said, and witness stated what had occurred. The governor asked him (M'Laughlin) questions, and he was very insolent; the insolence was the same as he used before; Mr. Higgin begged of the governor to allow him to speak to M'Laughlin, and to make it more plain to him; and M'Laughlin said, that the governor had no right to make rules about Religion. M'Laughlin was sent to the third class in a few days after, and witness has every reason to think this was the cause of it. Mr. Algeo told witness that M'Laughlin was sent to the third class for disobedience of orders, and his insolence to the governor; Mr. Algeo desired witness to take him to the third class. If M'Laughlin had been a Catholic, and that he wished to become a Protestant, the rule would have been adhered to. Has never known an instance of the governor going with Mr. O'Donovan to a Catholic who was going to become a Protestant; thinks the reason the governor went with Mr. Higgin, that day, was on account of the disobedience of orders, by M'Laughlin; witness had a division of his own formerly, but is now an attendant upon Dr. Orpen, and, to the best of his recollection, has never known any difference of treatment made between a Protestant and a Catholic, on account of being a Protestant; witness has expressed an opinion that Catholics who break through the rules were treated more leniently than Protestants. Cannot account for the circumstance.

Mr. TOWNSEND—I know it is very likely that if a man wishes to be very impartial, he will fall into conduct of the kind through a wish to avoid the appearance of partiality.

Examination resumed—Witness does not remember Mr. O'Donovan giving any instruction, either moral, literary, or religious, except saying Mass on a Sunday and preaching, but on one occasion, when he was passing by, and one of the flock was very outrageous; and Mr. O'Donovan told him to be quiet, and passed on. Mr. Wood and witness had a private room, and it was in this room that the occurrence about Mr. O'Donovan and the prisoner, happened; it was not in that room the prisoners dined; the prisoners never dined in that room since he knew it, for a period of twelve months. The prisoners were at dinner in their room, and after they had dined, witness, being greatly hurried for time, went up to his own room, for the purpose of dining. As witness was going up, one of the convicts whispered to witness, that Mr. O'Donovan was in his room. When witness went up he looked

once or twice through the room, being unwilling to disturb them; at length he entered the room. Mr. O'Donovan, when witness entered, was sitting on a chair, at one side of the fire, and his legs were stretched across the fire, and the prisoner was kneeling, and his hands were clasped, and resting on Mr. O'Donovan's knee. Witness said, "Mr. O'Donovan, will you be so good to withdraw, as I have scarcely any time to eat my dinner?" Mr. O'Donovan said to witness, that as he (witness) was a new comer, he did not know the rules. Witness replied, that it might be so, but that he could not allow Mr. O'Donovan to have confession in his (witness's) room, without the governor's approbation or permission; and that he (Mr. O'Donovan) had a room for that purpose. Witness never saw Mr. O'Donovan hearing confessions in his room before; witness came into the Penitentiary on the 15th December, 1824; witness cannot tell how soon after his coming here that may have happened; witness thinks it may have happened about Easter, 1825. Gavigan was in witness's division; he (Gavigan) was a middling behaved man, he was a quiet man, and complained of want of instruction, which witness used to give him; Gavigan professed to be a Catholic; he used constantly be watching witness to get information from witness, and said he was in darkness, and wished to change his Religion, but that as he stopped so long, he would wait until he got out; witness told him he had better do so, adding, at the same time, that he might change his opinions, but not his Religion, as there was but one. Witness, on being asked controversial questions by the prisoners, used to say he knew nothing at all about it, but they ought to forsake their sins and their foolish ways, and turn to God. Witness does not recollect Gavigan, who was not very long under witness's directions, being punished for crossing the yard, for the purpose of talking to Mr. O'Donovan, or for stopping in the Chapel.

Mr. ROWAN here said, that it was a general rule not to allow a convict to stop in Church or Chapel to talk to his fellow convicts.

Witness, after the occurrence, went to ask Mr. Algeo about the affair with Mr. O'Donovan. Mr. Algeo said that it was against the rule to allow any confession in his private room, but that it was better if he (witness) had not interrupted Mr. O'Donovan, but that it could not be helped.

Cross-examined by Mr. Dolan—Witness may *contribute* the conversions here to two or three things, but he may be wrong to be sure—first, to the reading of the Scriptures—second, the officers having liberty to read a chapter, and to go to prayers with the Protestants in the evening—thirdly, the fervent and devout prayers of the Protestants, which have induced Providence to change the minds of the Catholics; this last is a chief means, witness thinks; witness thinks that the prisoners are jealous of seeing the Protestants getting so much instruction on Religion from the officers; officers are not permitted to give instruction to Catholics; Catholics have complained to witness that they got no religious instruction; John

Goold has said to witness that the Protestants got more instruction from Mr. Higgin at one single time, than ever he got all the while he was in the Institution, unless when he was in the Chapel. Catholics were not allowed to go to prayers in the afternoon, with the Protestants—it was against rule that they should; does not recollect having allowed the Catholics to go in; witness, as far as in his power lies, has given moral and religious instruction to the Protestant prisoners; the moral and religious instruction witness gave, was this, he read a chapter and went to prayers, and if he was asked his opinion, he gave it; on the occasion of the governor going to M'Laughlin, to the best of witness's opinion, he does not recollect any question, as far as he recollects at present, being asked of M'Laughlin by the governor.

Mr. ROWAN—I have already made an admission, that may save the opposite party some trouble—I will repeat it—when I have, by every means in my power, by all the strength of language that I could use, impressed upon the prisoners that I would act with impartiality and justice, without reference to the prisoners being Catholics or Protestants—I may then have said, that I was a Protestant, firm in my tenets, and sincere in my faith—that I wished them not to understand that I was indifferent to my own faith.

Mr. DOLAN—This is one of our charges.

Mr. ROWAN—If I were in the presence of Royalty, I would say so, and am prepared to justify it. I confess I have often shrunk back here, from the effects of my conscience, at restraining myself so much with Catholic prisoners.

Mr. DOLAN—We are much obliged to you for your admission, this is one of our charges.

Examination resumed—Witness does not recollect having ever told any Catholic that he was worshipping stocks and stones; witness always avoided controversy; witness had a book of controversy, which he has left in the way of a Catholic prisoner; he gave it to the prisoner whose name was Connell; the book was a collection of texts and explanations; Connell used to be always teasing witness for explanation, and making inquiries of witness about his Religion; witness has showed the book to Mr. Higgin; has seen the title page of controversial tracts here; has seen those books in the officers' rooms; the prisoners could take them as well as they could take any other part of the property of the officers; witness has seen copies of the tract in the Penitentiary, "The difference between Protestantism and Popery;" has seen several tracts in the officers' rooms.

Mr. O'DONOVAN—Mr. Suter, I mean you no offence—of what Religion are you?

Witness—I am of the Religion of the Scriptures.

Mr. TOWNSEND—Of what particular Church?

Witness—I am of the Methodist Church.

Mr. TOWNSEND—I regret having made any observations upon

the methodists, while ago. I did not know any one of that profession was present, I only object to some of their teachers, whom I have heard, I believe their faith is the same as my own.

Witness—Oh! sir, I am not displeased at it, I was first a Presbyterian.

Witness withdrew.

Mr. TOWNSEND—Now, Mr. Rowan, there is a rule that may require some explanation, the rule regarding the probation, and also the reason why it has not been strictly observed on both sides, or the cause of departure, if it have been departed from, under any particular circumstances. You may probably think these topics fit for your consideration.

Mr. ROWAN said, that the rules were all made to answer the purposes of the Penitentiary, that is, to make them all good men. He (Mr. R.) was not called on to justify these rules, nor had the question here arisen.

The last witness here entered, and produced the book which he lent to William Connell. The book is entitled "A collection of Texts of Scripture, with short notes upon them, against the principal Popish Errors"—being "A Summary of the Doctrine of the Church of Rome, with a plain Refutation by Scripture."—London, printed for Samuel Norman, 1686, and Dublin, reprinted by L. Tute, 15, Parliament-street, 1815.

Mr. TOWNSEND said, "I do not mean to say what my opinion is on any part of this Investigation, but it is our duty to suggest the propriety of the public functionary, into whose conduct we are going to report, and which report, may yet appear before Parliament, the necessity of his explaining, as much as possible, every part of his conduct."

Doctor Charles Edward Herbert Orpen, sworn and examined by Mr. Townsend.

Is physician here, and has heard some parts of the testimony here; has heard it proved here by some witness's, that the person confined to the stocks, should lie on the boards, but that is not true; the prisoners in solitary confinement, had always straw, or straw mats to lie on; has heard it stated here, by a person, that he was confined by both his legs all the time he was in confinement; that was not true, for part of the time, he had only one leg in the stocks; for a few days and nights, both his legs were confined, but he complained to witness, who either wrote or spoke to the governor about it, and the governor soon had the confinement removed; there was some difficulty, but not impossibility of a man in stocks obeying the calls of nature; has heard it stated here, that some of the prisoners, confined here on bread and water, suffered; that has not been the case since witness came here; when witness came here, the governor told him that it would be well if he saw the prisoners in solitary confinement, there was therefore a

used afterwards, or that his recommendation was acted upon. Witness went through all the solitary cells yesterday; saw the arch in the garden where the cage was, and thinks two men might lie there; thinks a window in the top of a cell, such as the window described in the evidence that was in the cage, airs a cell better than those in the usual solitary cells; thinks the cells in the prison are, as to size, dryness, and cleanliness, as good as they can be, but they are totally insufficient for purposes of severity. The roofs are covered merely with lath and plaster; every one confined in these cells ought to be either in stocks or hand-cuffs, if they be at all desperate people, for the purposes of security. It is a common practice here to allow prisoners, after being in the solitary confinement for a few days to have a small yard to walk in; all of the solitary cells, except two, have small yards; these two are not now used; witness has often found prisoners, in that state, walking. The walls of those cells are very badly built; if one stone were taken out of them, witness thinks the prisoner would get out of them in a quarter of an hour; witness has seen the roofs of one, and the walls of another, broken; the floors of two of the cells are now bricked; the floors were clay; they have not dried since they were floored; the mortar is not dry yet, and will not for a length of time, in consequence of the want of ventilation; the clay floors used to be dry; the floors were very insecure before they were bricked. Witness contradicts the evidence of Carey, that his hands were sore and swelled, and that he was in a bad state, or that his health was in any way injured. Carey told witness that he was put there for insolence to the governor, and that he had a bad temper. When witness saw Graham in solitary confinement, he never told witness that his legs were hurt in stretching for the *pot de chambre*; the bed was so narrow, that a man in stocks could stretch for it without hurting himself; has never seen any one in stocks and handcuffs at the same time, but has seen them in handcuffs and bolts at the same time, with a chain connecting them; has never seen any one with a chain so short that he could not stand erect. It is a common thing to find prisoners reporting themselves ill, and then when witness goes to them to find them not ill; they forfeit their breakfast by that, for they get water gruel when they report themselves sick. Rossiter, who was here, pretended to have epilepsy, and witness found him sprawling on the floor with his nose all bloody; witness having searched his bed found a piece of brick in it, with which he scratched his face, so witness blistered him; witness often blisters the prisoners, when he finds them pretending illness, and he finds that it has the best effect.

Mr. DOLAN—That is a plan that may be as well avoided as a punishment, for the sake of the physician. It was one of the charges against the physician of the Ilchester gaol, that he blistered the prisoners as a punishment.

Examination resumed—It is the regulation of the governor that witness should visit those in solitary confinement and that

they should be reported to witness the morning after they are put in. This regulation was made a little after witness was doing duty here for Mr. Todd, for some time before the Government appointed him. A Catholic woman of the name of Doolan, came here ill, and by witness's advice, in answer to a letter from the governor, witness went to see her. She was dangerously ill of a disease of the liver, and was sent in that state, very improperly, from the country. Mr. O'Donovan was allowed to see her without a probation.

Examined by Mr. Rowan—Mr. Rowan had several conversations with witness previous to the adoption of the stocks for the feet; witness thinks their adoption was to prevent the people getting out of their cells; stocks for the legs were not suggested by witness; witness thinks he may have mentioned the stocks for the hands. The governor asked witness, were they not more humane than the irons, to which witness replied in the affirmative. Has seen iron handcuffs in the prison; witness would rather wear wooden-handcuffs, than iron-handcuffs; has seen Rose M'Carthy here in a strait waistcoat; does not think he ever saw any body else; does not think a strait waistcoat could injure any one, but it is very unpleasant; never saw any unpleasant tightness about it. Witness saw Rose M'Carthy several days in the strait waistcoat, in the hospital range; witness at the time, just came here to act for Mr. Todd, who went to London; and when witness came he found her in the strait waistcoat. Witness has had several conversations with Mr. Todd about the prison; witness has never heard him intimate any unfavourable opinion as to the mode of treating prisoners here. Mr. Todd told witness that he thought Rose M'Carthy was too many days in solitary confinement, and that he ordered her to be sent up to the hospital. Witness came here on the 21st April, 1825, for the first time, to attend in Mr. Todd's absence—(a series of morning reports of convicts not in hospital, from the 25th March, 1825, to the 4th April, 1825, was here produced—Rose M'Carthy does not appear ill; she is then reported sick of headache, and at Mr. Todd's request, is removed to hospital. Mr. Rowan said that these reports showed that she was not ill antecedent to the 4th April. By this report it appeared that, on April 9th, she was reported well. These reports are made by the apothecary. An hospital order dated April 8th, signed by Mr. Todd, recommended her removal to the ward, she being sufficiently recovered; but she was not then removed, in consequence of there being no room for her in her division. On the 4th April there is an aperient mixture ordered for Rose M'Carthy, but no other medicine appears ordered for her until the 8th. On the reports [illegible] hospital for the 12th, she appears well, but not then remov[illegible] M'Carthy, at the ti[illegible]ess saw her in the waistcoat, [illegible] constrained than [illegible]n in irons; witness hea[illegible] he would either [illegible]r some one else. S[illegible] in the solitary [illegible] no waistcoat but s[illegible] on; she was

rule made, that twice a week, whether ill or well, witness should see every prisoner in solitary confinement, and every day when reported ill; witness sees the prisoners always within twenty-four hours after they are put into solitary confinement, and every day when reported ill; has a more distinct recollection of Gallagher, Frazer, Rose M'Carthy and M'Cann, and Kelly, than any others in solitary confinement; witness is sure that Kelly had straw enough when he was in solitary confinement; never saw any one here both in stocks and handcuffs at the same time on him; there is a much greater defect in the cells being too warm, than in their being too cold; any room of their size, without ventilation, must be warm.

The COURT adjourned.

Defence—Eighth Day—October 3.

The COURT met at the usual hour.

Examination of Dr. Orpen resumed—Examined by the Court—Has read over all the evidence. Witness finds, on examination of his books, that he never ordered any change of diet for William Kelly, not thinking him ill; he was confined in November, and part of December, and, during that period, his condition never required any change. During November and December, witness prescribed five times for him; witness did not find it necessary to order any change of diet; on the 14th and 22d of November, witness ordered him a few pills for a constipation, and on the 2d December, witness ordered him medicine for a diarrhœa, which is a purging without passing of blood, or fever. There was another person in confinement of the name of Graham, and witness finds, on February 11th, 1826, he marked him ill of dysentery, on that day, on the 12th, witness gave him the lowest medical dietary, and on the 13th found him well. Mary Frazer, it appears, by the book of Mr. Rowan, was confined on the 1st of November, and witness saw her on the 7th; on that day she had diarrhœa, and witness ordered her milk diet; witness cannot tell whether she got milk or not, but supposes, that from the practice, she got bread and water.

Mr. DOLAN—Are we not, sir, entitled to see the books from which Mr. Rowan now reads extracts.

Mr. TOWNSEND—Most certainly, to see the passages to which he refers.

A long argument here took place as to the right of seeing the books all through, which Mr. Townsend denied—Mr. Rowan urging that the books were the property of Government.

Examination resumed—Witness ordered her the low diet, which was plenty of whey and flummery; this was on the 7th, and on the 9th and 11th, witness also prescribed for her; after the 11th witness prescribed nothing. By the diet book that witness keeps, witness finds she was on the low diet first ordered, from the 7th to the 21st; this was all by witness's direction. The handstocks here produced, were these Mary Frazer had on; she could lie on her back with them; and witness has seen her in the bed with them; witness prescribed no medicine whatever for her in December;—witness thinks she could, while she had these on, assist herself in the offices of nature; a man could not, for he could not unbutton his breeches; a woman could, from the nature of her dress; the hands of her or any other person never swelled; Rose M'Carthy, who had leather stocks on, had swelled hands; witness recommended, by way of relief that there should be two pair of holes for the hands, in the wooden stocks, in order to change the position of the wrists; witness does not know they were ever

than diarrhœa; witness has not, to the best of his recollection, but he cannot be positive, seen a man on bread and water for more than thirteen or fourteen days, and an allowance of a pound of bread for that time would not injure the health permanently, although it would reduce his strength; a man requires less food when he is not exercising; different prisoners have complained to witness, that they got too little in a pound of bread, but he judges of their pulses, face, and general appearance, whether he would attend to the complaint; witness thinks that the solitary cells are not sufficiently ventilated, and some means ought to be taken to ventilate them.

To a question from Mr. Rowan—Thinks a full diet for the time they are confined, that is, if they get meat and no exercise, would be more likely to injure them than, being limited to a pound of bread and abundance of water; the cage might be more healthy than the solitary cells, but colder in winter; witness has visited a great number of prisons in France and Italy, and in England, Scotland, and Ireland, and he never saw one better conducted than this; witness never saw one so well conducted as this; no one died in this prison since witness came here.

Doctor Orpen begged to say that he was not recommended to this appointment by Mr. Rowan, he came here prejudiced against Mr. Rowan; for Mr. Todd, to whom witness served his time, complained of the regulations which Mr. Rowan had imposed upon him; witness thinks there was unpleasant feeling between Mr. Todd and Mr. Rowan in consequence of the punctilious precision with which it was required that the medical duties should be discharged; witness has never heard Mr. Todd complain of more than the treatment of Rose M'Carthy.

Mr. Dolan admitted the service of the notice with regard to the production of the letters.

Adjourned.

Defence—Ninth Day—October 4.

The COURT sat at the usual hour.

Mr. DOLAN explained with regard to Mr. Crofton, and declared it was not from him he got the information concerning the existence of the letter-book.

Miss Elizabeth Freeman sworn and examined

Is matron here.

By Mr. Townsend—" Were you present at a conversation alleged by Bridget Brenan in her evidence of the 18th August, to have occurred between her and the governor, in which he threatened when this Investigation was over, to banish the firebrands out of this, and to use them with the greatest severity and cruelty."

Witness—" Such a conversation never passed in my presence."

Major PALMER—" Did you hear any body else say it?"

Witness—" No."

Examination continued—The rule respecting female prisoners, when they come into this Establishment, is this—They are put into a ward, and remain there for a week; they are allowed exercise, but are not permitted to mix with the other prisoners; the object of this seclusion is, to give them time for general reflection; the prisoners are asked no questions before they are put in; at the end of the week, their warders ask them their Religion, and tell them of there being a Protestant and Catholic Chaplain; witness was never present at this proceeding, but understands it is the practice or rule; never heard of the prisoners declaring their Religion before they were thus asked; on two days in the week there must be an objection to diet; witness thinks they get potatoes and milk on Friday; the store-keeper gives the provisions to the warders, who distributes them; the warders can best tell what the prisoners get. Has never known any one to be kept longer in this seclusion than a week, unless those who were ill and unable to attend their places of worship; there were three women who came in with children, and they not being able to go to Chapel, witness desired that one of the three should remain to take care of the children of the other two, and this continued for a fortnight; they declared themselves to the warders to be Catholics, at the end of the week; there are prayers in the Protestant Church every day, and if the prisoners should come in on Monday, they go to Church on the Monday following; the prisoners are asked on the last day of the probation week, what place they will go to, having been first told there is a Catholic and Protestant Chaplain here, and having declared their intention, they go to the place of worship of their choice; has known no deviation from the rule, unless in the case of the three women just now referred to; has known no means, by suggestion, observation, or hints, made in the course of the week

to induce prisoners to change their Religion, but has heard so from Mr. O'Donovan; Mr. O'Donovan mentioned there were one warder and one wards-woman famous for proselytising, and on being pressed by witness to disclose the names of these persons, Mr. O'Donovan said, these were Miss Hatton, and Betty Bracken, a prisoner of the first class; witness has spoken to Miss Hatton on the subject, and told her of what Mr. O'Donovan had said, and added that she was very wrong if it were true; Miss Hatton declared that the report of Mr. O'Donovan was not the fact, that she never had proselytised; Betty Bracken was a very stupid old woman; if a prisoner, Protestant or Catholic, expressed a wish to change her Religion, her wish was put in the morning report to witness, who first received the reports, and then brought them to the governor; the rule then is, to prevent the prisoner thus reporting, from going to her place of worship for the week, that is the only restraint the prisoners suffer, unless they are in lock-up classes; witness remembers it appears by the book that Mary Fraser went to Chapel on one Sunday, and she was on the next Sunday at the Protestant Church; witness supposes that there was a mistake in the entry, for the rule is very strictly observed; witness is sure that it must be a mistake in the entry, for she recollects the governor expressing to her (witness) his wish that Mary Frazer should not go till the week was expired; witness thinks the rule is strictly enforced with both Protestants and Catholics; witness has only known exceptions to this rule in the cases of Mary Lane, and a woman of the name of Doolan, who came in ill; these were both Catholics; these persons were both dangerously ill, and the rule was relaxed, and the Catholic Chaplain was sent for to them, and permitted to attend them; Mrs. Farrell the hospital-warder, told witness that Doolan was so bad, that she was in danger; Mrs. Farrell herself is a Roman Catholic; knows of no other departure from the rule, but in these instances; witness has never known at her side of the house, any difference of treatment on account of Religion; witness has never known in the slightest degree, the governor, herself, or the warders or wards-women making any difference on this account: has never known any species of influence whatever to be used by the governor or any other person who had access to the prisoners, to make them change their Religion; witness recollects Mary Frazer being put in solitary confinement; recollects that while she was in confinement, Doctor Orpen prescribed some particular kind of diet; recollects that she was ordered bread and water, but she did not get it; witness ordered her some bread and warm milk, and ordered her a bed with additional blankets, as she complained of cold; thinks, that at the end of four days, Doctor Orpen prescribed for her, and ordered the wooden handcuffs to be taken off her hands; handcuffs had been put on by the governor's order, at witness's desire, for Mary Frazer was threatening to destroy herself; the order for her diet was, that she should get *bread and water*, but in fact she never did; witness thinks

she was in solitary confinement for nearly three weeks; she was removed to her ward, on 25th Nov. and she was put into solitary confinement on the 1st November. Mrs. Roberts was the warder; on the 4th, Doctor Orpen ordered the handcuffs to be taken off, and they were never put on again. Has known prisoners to be longer in solitary confinement than Mary Frazer; Sally Donnelly was longer; Sally Donnelly was four weeks and three days; thinks Sally Donnelly tore off the leather muffs that were on her, three times; she tore off the leather straps, and Mr. Algeo procured a small chain that fastened her hands behind, Mrs. Arundel was the officer; the chain was not let remain on her long, for she promised that if it were taken off, she would do no mischief; her offences were numerous—first of all, she told lies about Mr. Neary, the apothecary; these lies were very much to his discredit; Mrs. Duigan (Donnelly's officer) told witness that if there were not a stop put to the tongue of Donnelly, it would be very injurious to the other women to hear these stories, and Donnelly was very violent; witness, at the request of Mrs. Duigan, who heard her say she would murder any one who came near her, went up to expostulate with her, and she threw at witness a pewter vessel; witness then went for Mr. Neary and Mr. Algeo, who brought up the leather muffs. and put them on; witness then reported the circumstance to Major Palmer, who was in charge at the time, and he ordered her into solitary confinement; Sally Donnelly declared solemnly, and was very anxious to assure witness, that she did not intend to hurt her, that she thought it was Mrs. Duigan who was entering the room when she threw the vessel at her, and that although she would take away Mrs. Duigan's life, she would not injure witness; witness has since heard from Sally Donnelly herself what she said of Mr. Neary, and if what Sally Donnelly declared to her be true, she thinks there was no great harm in it; it was long after Donnelly got out of solitary confinement, that she told witness of the language she had used. It was some time about July that Sally Donnelly was confined; the governor was then in England; witness cannot tell how long Donnelly had the muffs on, but Mrs. Arundel could tell, by referring to her book; witness thinks the muffs were on for a week; one day witness was going round, and on her expressing her contrition, and on Mrs. Arundel's pledging herself for her good behaviour, as she threatened to beat any one that would come near her, witness ordered the muffs to be taken off; Sally Donnelly was very violent when the muffs were put on, and said lies had been told of her; the muffs were here produced—(See Appendix).

Examination resumed—The governor does not like iron handcuffs for women; all women in solitary confinement who cannot assist themselves have women to assist them; when the warders are changing the clothes of prisoners confined in this way they must take off the muffs; when prisoners are in solitary confinement, they are not allowed to go to Divine Service, no matter

what may be their Religion ; when Mary Frazer was taken out of her ward, on November 25th, she was not allowed to go to Divine Service ; Frazer was first reduced from the second to the third class ; the governor and witness went down to speak to Frazer and Mullally, about their conduct in the laundry ; the governor spoke to them on their impropriety ; Sibby Mullally, one of the two, was a Protestant, and was reduced from the first class ; the governor pointed out to Mullally the impropriety of her conduct, in a religious point of view, and she appeared to feel greatly his observations, and told him many things regarding the occurrence that he had not before heard of ; the governor then called Frazer in and desired her to tell him the whole truth of what had occurred in the laundry, and the names of the men ; Frazer declared, and called God to witness, that she knew nothing of the business, and was quite innocent of it ; witness and the governor had reason to know that she was not innocent, and they were both shocked at her calling God to witness ; the governor then gave her four days to consider whether she would tell the truth ; the governor was then going to advise her, and he turned to witness and asked her was Frazer a Protestant or Catholic ; witness said she was a Catholic ; " Oh ! then, said the governor, I cannot speak to you about Religion, I will give you four days to consider will you tell the truth." The governor and witness then left the division ; believes this was on a Thursday, and on the following Sunday she went to Chapel, as usual, and then she made the speech in Chapel about the governor threatening to send her to Botany Bay, in four days, for being a Roman Catholic ; her conduct was reported next morning ; she was then sent into solitary confinement, until the 25th of November ; she was allowed to remain in this division after the 25th, but was not allowed her work or books, or to be with the women ; she was allowed her half hour's exercise ; on the 25th February, she got her books and work, and was allowed to go to Chapel on the 26th ; she went two Sundays to Chapel in that division, and after that she was promoted, amongst others, to the second class, on the 4th March, but she was not removed there till the 6th March ; she went the following Sunday to Chapel, in the second class, and then she afterwards became a Protestant ; Miss Taggart was the warder of the second class ; previous to the promotion of the prisoner to the second class, she made no declaration of becoming a Protestant, but witness has heard from another person that Frazer said she would have become a Protestant in the third class, only that it would be said she did so from interested motives, to get promotion ; Frazer now professes herself to be a Protestant ; she is now in the second class ; witness does not recollect any one being in solitary confinement longer than three weeks ; Rose M'Carthy was put into solitary confinement, May 31st, and she remained there until July 29th, when she was removed from this ; she only got bread and water for one week ; she threatened to commit murder on any one who would come near her ; she beat

Mrs. Duigan going to Chapel, and she swore, and did various other things; Rose M'Carthy was longer, than any one witness recollects, in confinement.

Examined by Mr. Rowan— Remembers Mr. O'Donovan wanting leave for Mary Frazer to go to Chapel, on Christmas Day; the governor would not allow her to go, but he said he had no objection to Mr. O'Donovan coming to her.—(Here the witness identified a letter from Mr. Rowan to her, in reference to Mr. O'Donovan's application, that Frazer should be allowed—the letter stated, that Mr. Rowan could not permit Frazer to go to Chapel, until he would have some security that the decencies of Religion, and the subordination of the prison, would not be outraged in his person; but at the same time, Mr. O'Donovan might attend Frazer in her cell, and administer the rites of his Church to her; witness also identified a note written to her on the 23d December, before Mr. O'Donovan's application, stating that he had no objection, if it should be desired, that the rites of the Church should be given to Frazer in her cell.)—Witness is not sure that she communicated the substance of these notes to Mr. O'Donovan, but she is sure that she told Mrs. Roberts of the regulation; witness has never heard of Mr. O'Donovan reporting the conduct of Mary Frazer in the Chapel, to the governor; recollects Rose M'Carthy being removed to hospital, on the 4th April, 1825; does not think she was ill at the time, but Mrs. Farrell, in conversation with witness, advised that she should be removed to her, as she might have some influence with her; Mrs. Farrell is a Roman Catholic; Rose M'Carthy had one of the strait waistcoats on her, when she was removed; witness recollects, as Rose M'Carthy began to improve, witness loosened the lacing of the waistcoat; this was in the hospital; witness did not tell the governor of this; the governor, when he saw it on her, said, that she might as well have nothing on her, it was so loose; she was not hurt at all by the waistcoat, nor was it possible that she could be hurt; after witness loosened it, she used to take it off and put it on; before it was put on her at first, she broke everything in her ward; she threatened witness's life, and the lives of the warders; witness gave orders to have the beds made in a particular way, and Rose M'Carthy got quite angry at this; witness went down to see the beds made up, and as she was going down, the women began to scream, and one of them rushed towards her, and said, that Rose M'Carthy intended to stab her, which she afterwards acknowledged to witness she intended to do; she asked several times to go to Church, but witness thinks this was a whim of her's; believes she was retained in hospital after she was well, to keep her under Mrs. Farrell's care; after she left the hospital, she was good for one week, and one day in the next week, on the 29th June, she began again; it was after she left Mrs. Farrell, that she relapsed into her bad conduct.

Mr. DOLAN—This shows the good effect of placing a Catholic prisoner under an officer of her own persuasion.

Mr. ROWAN—Add, also, that the relapse occurred after she lost the strait waistcoat.

Here Mr. Rowan handed a report, which the witness read, and swore to be a correct statement of the facts set forth. The following is a copy :—

" The first conversation I recollect having with Mr. O'Donovan, " was before the governor went to England. Miss Taggart was " present when he complained to me that the Roman Catholic women " (particularly in one division) were forced to eat meat on Friday. " I requested him to tell me the name of the warder, and the division, " but he would not ; and said it was utterly impossible that such a thing " could be done, without my knowledge. And as it was the strict " orders of the governor that no difference whatever should be made " between Protestants and Catholics, I thought he should certainly " mention the circumstance himself to Mr. Rowan, as I was well " aware he would not allow any warder to act in this manner. Mr. " O'Donovan still assured me the female officers did make a difference, " and that if the Roman Catholic women refused to eat meat on those " days, they got nothing but potatoes and salt. He appeared extremely " angry, but said he was very sure the governor knew nothing " about it ; and also, fully acquitted me and Miss Taggart—but I " strongly advised him to see the governor, and tell him the name of " the warder and the division. In some months after Mr. O'Dono- " van came to my rooms (Miss Taggart was present) and told me he " knew from different people in the house, that when the convicts " were brought in, they were not allowed to see any warder or ward's " woman, but Protestants—that they were by them induced to say " they would go to Church, and were often for three weeks not " allowed to go to any place of worship. This I assured him was a " falsehood, as the regulation was, when prisoners came in, they " were not asked a word about Religion for one week. It was then " my duty to inquire from them what Church they wished to go to. " I reported it to the governor, who gave an order that they should " go to whatever place of worship they wished ; and after they did " so, I informed the chaplain of it, who saw them the following day. " This regulation I assured Mr. O'Donovan, I very strictly adhered " to, therefore, it was utterly impossible for any female convicts to " be here for three weeks, without going to Church or Chapel, " exeept sickness prevented them ; but he did not seem to believe " me, still telling me, one division in particular, and one ward's- " woman, was famous for making the women change on coming into " the Penitentiary. I mentioned several names, until at last I came " to Miss Hatton, and her ward's-woman, Betty Bracken. He said, " yes, that is the very woman. I told Mr. O'Donovan he certainly " should tell the governor this, as he must be convinced such pro- " ceedings would not be allowed, and that I thought it was my duty " as well as Mr. O'Donovan's, to openly mention it to the governor, " that a stop might be put to it at once. Mr. O'Donovan desired " me to mention it, and I did so. On Thursday, the 1st December,

" Mr. O'Donovan came to my house, seemingly very angry, and " said it was a shame for a poor creature to be kept on bread and " water forty-eight hours, because she could not learn her lesson ; " that for his part, he would rather go to Botany Bay, than through " the Penitentiary, hearing so many complaining of injustice. I " asked him what woman he meant—he said poor Jones. Well, Mr. " O'Donovan, said I, you should first inquire before you decide on " the cruelty of punishments. The woman you speak of, has told " you a falsehood. She was reported incorrect in the morning " report, for insolence to her warder; and when I went into the " division to investigate the affair, before I saw the governor, she " told me she would not learn her lesson, or be made a child of. I " asked to see the lesson, it was words of two syllables, and ten " words to learn. You recollect Jones reads very well, therefore it " could not be difficult task for her. I told the woman she was very " wrong to speak as she did to her officer—she said she did not care, " that she would not learn; that she would do all in her power to " be put into what she called a back class, as no justice was done " her where she was by any one. She said much more if I could " recollect, but really she was so extremely insolent, that I ordered " her to her ward, and then reported her to the governor, whose " orders were, that she should be on bread and water twenty-four " hours, and her work and school books taken from her. So you " see, Mr. O'Donovan, this woman, as well as many others, I dare " say, tells you falsehoods. But indeed, I do not think it right that " any one here should dictate or remark upon punishments, as you " must be convinced, the governor knows better than we do how to " manage those people ; and he is always acquainted with every " circumstance for and against the prisoner. Mr. O'Donovan then " went to Mrs. Roberts's division, and was very angry, I under- " stand, about a prayer-book, which a woman, through mistake, was " kept without for one hour. On this day he told me my name was " before the Bishop of Dublin, but for what I could not learn. On " Saturday, the 3d of December, Mr. O'Donovan was in my house " —spoke in the highest terms of the governor—said he always " found him to act like a gentleman, and indeed, spoke kindly of all " the officers. This was the day he ordered the women to attend " him in Chapel ; and he told me he had written to the governor, " but had not, at that time, received his reply. He begged I would " have the women ready to attend him ; but I added, not of course " without an order from the governor. And I asked him, if I was " at liberty to mention why he would not as usual, see the female " convicts in the wards, or warders' rooms. He said, yes ; that it " was against the rules of his Religion to hear a confession in a bed- " chamber. I asked him, if it was not the custom to do so here " before—he said it was, but that he did it to accommodate the " female warders, and would never do it again, from the bad stories " among the convicts, he was determined never to go into a ward " without a warder. On Wednesday the 21st, Mr. O'Donovan came

" to me for the key, and I told him I had orders from the governor " upwards of a week before, to make arrangements for the convicts " to attend him in Chapel, but as I had not seen him, of course, I " could not do so. He said it was then too late to prepare the women " for Christmas. On Monday, December 26th, Mr. O'Donovan " came to me for the key, and asked me if I had the morning report " for the 4th of May, I said I had—he then said, I would be called " upon to answer to it—I said very well, Mr. O'Donovan, I am " ready, and we parted good friends. I do not recollect any other " particular.

" ELIZABETH FREEMAN.

" 29th December, 1825."

Examination resumed.—Remembers an investigation, after Mr. Rowan's return from England, into a dispute that had occurred in the work-room, between the women in his absence; the investigation took place in June; it appears there was a dispute about Religion, that almost came to blows; witness went to Mr. Higgin and he came to the room, and quieted them by promising them an investigation when the governor would return; when the governor returned, he and Mr. Higgin came to investigate; Mr. O'Donovan was passing by the corridor, and the governor sent Mr. Higgin to Mr. O'Donovan to request Mr. O'Donovan to be present at the investigation; Mr. Higgin went out twice, but Mr. O'Donovan would not come; remembers receiving a letter dated June 15, 1826, from Mr. Rowan, and remembers her reply; the following are copies :—

" DEAR MISS FREEMAN,

" Having some reason to understand that some of the " female warders have given offence last Sunday by their deport- " ment during Divine Service in the Roman Catholic Chapel, I " request you will inquire into the circumstances, and report to me " the result of your investigation without delay.

" Truly yours,

" HILL W. ROWAN.

" 15th June, 1826.

" You can write your report on the other side of this paper.

" H. W. R."

Miss Freeman's reply.

" SIR,

" I have made every inquiry respecting the conduct of the " female warders during the time of Divine Service in the Roman " Catholic Chapel, on Sunday last, and from what I can learn, " Mrs. Arundel, Miss Taggart, and Miss Hatton, were the only

" persons in the slightest degree to blame, I understand Miss " Hatton's nose began to bleed, and not having a handkerchief, " she asked Miss Taggart for one, who smiled, on seeing her " putting some flannel she had round her neck, to stop the bleed- " ing; Mrs. Arundel also smiled, when she saw the blood on " Miss Hatton's face, but all declared most positively there was no " laughing or any levity whatever, except what I have mentioned.

" I am, sir, &c.

" E. FREEMAN.

" Richmond General Penitentiary,
" 16th June, 1826."

" 16*th June*, 1826,

" DEAR MISS FREEMAN,

" I am very glad to learn from your report respecting the " matter which I referred to you yesterday, that none of the female " officers of this establishment were guilty, at least, intentionally, of " disrespect, during Divine Service in the Roman Catholic Chapel, " as I had some reason to apprehend, indeed I should have felt " great surprise, as well as displeasure, if my suspicion had been " well founded, as from their good sense, good feelings, and general " good conduct, I am persuaded they must be impressed with the " conviction, that the utmost decorum of manner is required from " them during Service in the Roman Catholic Chapel; they are " constrained to attend there in order to secure the good conduct " of the convicts in their charge, and are, for many obvious reasons, " bound to conduct themselves whilst there, with scrupulous pro- " priety and decorum. Pray read what I have addressed to you " on this subject to the female officers at roll-call this evening, and " express my regret that any circumstance should have induced " them *even to smile* (as they admit) under the circumstances in " which they are placed.

" Yours truly,

" HILL W. ROWAN.

" Miss Freeman."

Mr. O'Donovan's letter to Mr. Rowan, and his reply:

" 16*th June*, 1826.

" Sir,

" I beg leave to inform you that my congregation was, on " last Sunday, the 11th June, instant, most wantonly insulted in " the Chapel, by three female keepers during the most solemn " part of Divine Worship; should this conduct be continued I " cannot take upon me to say what the consequences may be; it " corresponds with similar outrageous levity practised on Monday

" the 5th instant in the female work-room, on the subject of Re-
" ligion; and I am sorry to say too much of this work has been
" practised in the Richmond General Penitentiary for a consider-
" able time back; I am certain that you are well aware that I
" never interfere with any communion except my own, or deserve
" such conduct. May I entreat of you to prevent it, and not to
" permit those persons to hurt my feelings, and those of the poor
" prisoners of my communion, on these occasions. It is an open
" violation of all order, law, and, I am sure, of prison discipline.

" I am, Sir, yours, &c.,
" JOHN M. O'DONOVAN.

" H. W. Rowan, Esq."

" *Richmond General Penitentiary,*
" 11*th June,* 1826.

" DEAR SIR,

" If you will do me the favor to call here at any time
" that may meet your convenience, to which I shall be happy to
" attend, I shall be ready to give you satisfactory information on
" the subject of your letter of this morning; but I beg leave, under
" existing circumstances, to decline entering into any correspon-
" dence on the matter to which it refers, farther than to express
" my unqualified dissent from the opinions you have advanced
" thereon, and my conviction that you have been misinformed.

" Dear Sir,
" Faithfully yours,
" HILL W. ROWAN.

" Rev. J. M. O'Donovan."

Examination resumed—When witness came here, the governor asked her what Religion she was of; and, on being told she was a Protestant, said, that he would not at all allow proselytising here, and that she was not to interfere in any way with the Roman Catholics in their Religion; this was the first charge the governor gave witness; witness never did interfere.

By Mr. Townsend—Knows there may have been conversions here; attributes them—first, to reading the Scriptures—next, to the circumstance of the Roman Catholic women, seeing the moral and religious instruction Mr. Higgin gives, and the efforts he makes to impress religious truth on their minds, who then wish that they should receive similar instruction; several of them have told witness so; thinks reading the Scriptures has a great effect in making Protestants; prisoners have no inducement either from hopes or fear to make them change; the treatment is the same; some of them who changed, told witness that they changed at first from curiosity; thinks that afterwards they, on receiving religious instruc-

tion, become sincere Protestants; witness has been accused of partiality to the Catholics.

By Mr. Rowan—Witness has never seen any moral or religious instruction given to Catholics here until within this month, when she saw Mr. O'Donovan, on one occasion, reading to the women; witness has dissuaded Rose M'Carthy and Catherine Connell from going to Church; witness was desired by the governor and Mr. Higgin to dissuade Catherine Connell from going, lest her doing so might be the cause of unhappiness to her husband; Catherine Connell or Healy always expressed great affection for the governor.

The COURT adjourned.

Defence—Tenth Day—October 5.

The COURT met at the usual hour.

Examination of Miss Freeman resumed—Miss Freeman, on appearing, said, she wished to correct an error which she had made, yesterday, in her evidence.

Mr. TOWNSEND said she was perfectly right. If Miss Freeman pleased, her evidence would be read over to her, in order that she might correct any particulars of it that, through want of recollection, she may have been incorrect in stating.

Miss FREEMAN said, she deposed that she never interfered with a Roman Catholic, or spoke to a Catholic on Religion—that was erroneous, at least in one instance; there was a woman in the laundry when witness came here, whose name was Moore; the women in the laundry had an irregular manner of sitting down to dinner, and witness one day called them up and said, that they should sit down regularly every day when the bell rang for dinner, and that one of the women should say grace, and sit at the head of the table; Moore burst out laughing, and walked away, saying, that she would not sit down, nor would she attend to any bell; witness said that she should, and Moore then gave a great deal of insolence, and ran to the poker, for the purpose of knocking witness down; witness desired her hands to be secured, and that she should be carried into her ward; witness reported to the governor, and Moore was ordered into an unoccupied division. Moore sent for witness two or three times to beg her pardon, and one day she heard witness's foot in the division, and she called to witness to beg she would come and speak to her, which witness did; witness first went to the door, and when witness went in to her, Moore went on her knees, and begged to be forgiven; witness said she did forgive her; witness asked her did she (Moore) ever pray to God to keep her from getting into these violent fits of passion? Moore replied that she never had; witness asked her would she have any objection to kneel down with her (witness) and pray to God to keep her from those fits of passion? Moore said she had not, and they both then knelt down and prayed; the prayer that they prayed was no more than a simple prayer to God to keep her from passion and ill temper. Moore asked witness would she come to her every day, and pray, and that if she did, it would keep her from getting into passion and ill temper; witness said she would come to her, and she (witness) did so as long as Moore was there; Moore was there for a week; when Moore was about to be restored to her division, she said to witness that she would rather not be restored, as she was sure if witness did not come to her she would get into a scrape again; witness said that it was no matter whether she was a Catholic or a Pro-

testant, she would come to her and pray with her, if it would do her any good; Moore then expressed a wish to go to Church; witness met Mr. O'Donovan in the corridor, and told Mr. O'Donovan that Moore was wanting to go to Church, and that the witness would be glad that he would come up and speak to her; witness did not tell Mr. O'Donovan the circumstances above mentioned, regarding the prayers; Mr. O'Donovan did come up to the ward, and said a great deal to her; Mr. O'Donovan said he was very much obliged to Miss Freeman for what she had done; Mr. O'Donovan said a great deal to Moore, without effect; she went to Church, and she remained a Protestant while she was in this house, until she was pardoned; this was the only instance in which witness interfered; witness, in this instance, did not interfere, in the slightest degree, in the Religion of Moore, but so far as she has mentioned; this occurred shortly after witness came here, and Moore was the first person punished on witness's account, which made her (witness) feel anxious about her; witness also said, yesterday, that neither she nor the officers ever asked any questions about Religion, off the prisoners, until the end of the week, but fearing she may have been mistaken, she inquired yesterday of two of the officers, who told her, that, in the beginning of a week, they very often told the prisoners there were a Protestant and a Roman Catholic Chaplain here, and that, at the end of the week, they would have their choice to go where they pleased; the officers said it was generally their practice, but witness never knew of the officers speaking in this way; witness herself never spoke to them in this manner. Witness wishes to mention another matter—the two warders that made this acknowledgment to witness are, Mrs. Arundel and Miss Cooney; witness said, yesterday, that Sally Donnelly had no other restraint on her but muffs, but she had also a strait waistcoat; witness cannot recollect how long she had it on, but she recollects her having on a waistcoat; thinks she had it on while the muffs were mending; thinks so; all the prayers which witness had with Sally Donnelly, while she was a Roman Catholic, were simple prayers to God, to keep her from violent passion; the governor has shown the iron helmet produced here, to witness, but witness has never seen it, or any other gag, on a female.

Mr. TOWNSEND—I do not know, Mr. O'Donovan, whether there be any objection to a Catholic praying with a Protestant?

Mr. O'DONOVAN—There is, sir, it is inconsistent with the discipline of the Catholic Church.

Mr. TOWNSEND—I have frequently seen Catholic servants attending Protestant prayers.

Mr. ROWAN—Mr. O'Dwyer, would you attend Protestant prayers?

Mr. O'DWYER—As a strict Catholic, I certainly could not—I would not think myself justified in point of religious discipline, although I should hope such prayers would be acceptable to God.

Mr. O'Donovan—It is utterly inconsistent with Catholic canons to join in prayer with those of a different communion.

Mr. Higgin—It is, in my opinion, a sacrifice of moral principle, to require a Catholic servant to conform to Protestant prayers—I do not oblige my servants to do so. My servants agreed to come, but they said, at the same time, that if they did so, they could not go to confession, and I immediately told them not to come, under those circumstances.

Mr. O'Donovan—I am sure, Mr. Higgin, you would do nothing unworthy of a Christian or a Gentleman.

Mr. Townsend said, that many persons stipulated that their servants should join in prayers.

Examination resumed by Mr. Rowan—Witness did not know that it was inconsistent with Catholic doctrine to ask a Catholic to pray in this way—(Here the following report was handed to witness, dated January 11, 1826, which witness proved to have been forwarded by her, and to be accurate in its details:—)

"*January* 11*th*, 1826.

"Sir,

"Mr. O'Donovan called here yesterday. I told him you wished to "know the number and names of the female convicts who were to "attend in the Chapel on Friday, to be confessed.

"He said every Roman Catholic woman in the Building should "come, and to inform you, that he should have you brought before "the Archbishop of Dublin—that he had also desired Mary Frazer "to make a complaint to the Inspector General, on Monday next, "for being prevented from going to Chapel, as no man, he added, "had a right to prevent any persons, even under sentence of death "or transportation, from going to their place of worship. I thought "it my duty, sir, to inform you of this conversation,

"And am, Sir,

"Your obedient servant,

"ELIZABETH FREEMAN, Matron."

The following order, dated January 12th, 1826, directing that the women should be allowed to go to confession, with the exception of Mary Frazer, was here produced, and proved to:—

"Miss Freeman,

"The women of the Roman Catholic persuasion, with the ex- "ception of Mary Frazer, are to be taken to the Roman Catholic "Chapel to-morrow morning, if required by Mr. O'Donovan, for "the purpose of confession. They are to be retained either in the "corridor leading to the women's gallery in the Chapel, where they "are to be confessed; or in the small unoccupied room of Mrs. "Cooney's division, with the exception of the individual or indivi- "duals whom Mr. O'Donovan may wish to take into the Chapel for

" confession. As they are of the different classes, an officer must " be present, *but not in the Chapel*, in order to maintain silence and " subordination.

" H. W. ROWAN.

" 12*th January*, 1826.

" The hour of going to Chapel is to be ten o'clock, of which, if " Mr. O'Donovan calls, he is to be informed."

Mr. TOWNSEND here observed, that the date was not in the same ink as the other parts of the letter.

Examination resumed—Mr. O'Donovan came, before Chrismas, to witness; she said that she had an order for a week, for leave for the prisoners to attend—Mr. O'Donovan said it was now too late. After the mode of hearing confession was settled, Mr. O'Donovan made no objection—(Here a letter was read, to Miss Freeman from Mr. O'Donovan, dated Tuesday, 22d ———, 1826, but which, it was admitted at all sides, was written in *March*, requesting that Miss Freeman would send the female prisoners on the ensuing Friday, at the usual hour, to the Chapel, to be prepared for their Easter duty)—Mr. Higgin has often complained of the dust in theChurch, although it is very neat; witness appointed two divisions of prisoners, one to keep the Chapel clean, and the other to keep the Church clean. Witness has heard of prisoners being sent away from the Chapel, Mr. O'Donovan being late; witness, since this Investigation, has received directions from the governor, to keep all knowledge of this Investigation from the convicts, and to tell the warders not to tell the prisoners; witness followed this injunction.

Mr. DOLAN—I think that was the very best way to have the prisoners told of the Investigation, by desiring it to be kept a secret.

Examination resumed—Witness believes the warders complied strictly with this order. The prisoners have spoken to witness about the "Lawsuit," as they call this Inquiry; witness is always in the habit of attending the governor, whenever he goes through the Penitentiary.

Mr. TOWNSEND said, that, on recollection, he thought it right to say, that although he said a short time since, he would have no objection to join in prayers with a Catholic, he did not say he would do so if he were an officer of this place.

Mr. ROWAN—I suppose, sir, you give no opinion negatively or affirmatively.

Mr. TOWNSEND—Oh, I give now no opinion at all. I only say, that my observation did not apply to the circumstances in which an officer of this house is placed.

Mr. DOLAN—A prisoner and an officer stand in a very peculiar relation.

Examination resumed—Has heard the female officers say that Mr. Rowan was more attentive to the prisoners than to their (the officers) safety; witness has never known any cruelty used here towards prisoners.

Mr. TOWNSEND—Oh ! that question is already answered ; I dare say if there were cruelties here, Miss Freeman would know of them.

Miss FREEMAN—No cruelty, sir, could take place amongst the females here without my knowledge ; every punishment I saw, unless the officers inflicted punishment without my orders. I have heard the officers frequently say, that while Mr. Rowan indulged the prisoners so much, it would be very difficult to manage them. I have thought so myself.

Mr. TOWNSEND—Do you apply that generally?

Miss FREEMAN—Yes, sir, to the female prisoners—all the prisoners were treated equally, Protestants and Catholics.

Examined by Mr. Rowan—Have you ever seen a punishment inflicted upon a prisoner, of too much severity?

Miss FREEMAN—Why, sir, I think Frazer was kept from Chapel too long.

Mr. ROWAN—That you know has no reference to my question ; that is not punishment ; you mentioned your opinion to me, at the time, I remember.

Miss FREEMAN—I think it right, sir, to say so again.

Mr. ROWAN—Oh ! certainly.

Mr. TOWNSEND—Did you think keeping Frazer so long from Chapel, was a punishment, or a precaution?

Miss FREEMAN—Why sir, I think it was a precaution ; but I think if she were let go to Chapel sooner than she was, it would have been better. I know, indeed, that her punishment was for her conduct in the Chapel, and the other circumstances connected with it, and what occurred in the laundry.

Mr. TOWNSEND—If Mary Frazer had been a Protestant, and had acted so in the Protestant Church, would she have been kept from it in like manner?

Miss FREEMAN—I am sure she would.

Mr. TOWNSEND—Did you ever know any one else, except those in solitary confinement, and those ill, or those in the probation week, kept so long from Chapel?

Miss FREEMAN—Sometimes Protestants and Catholics are confined to their ward for a week, or for some time, as a punishment, and then they are allowed to go to their places of worship.

Examination resumed—Never knew any one kept from Chapel but those confined to their ward, or those in probation, or ill, (Mary Frazer was kept from Chapel specially) with the exception of prisoners punished for offences ; the prisoners here are treated with kindness and humanity.

Mr. DOLAN said, he was sorry to again object to the practice of putting leading questions.

Mr. TOWNSEND agreed with Mr. Dolan, that the question just put was decidedly a leading question, but a respectable witness

like Miss Freeman, was not so liable to be influenced by a leading question, as another witness.

Witness knows Bridget Brenan, a prisoner here; would not believe her on her oath; has known her to tell untruths.

Mr. O'Donovan—I beg, of Mr. Townsend, to be asked my opinion, on my oath, on that point.

Mr. Townsend—You shall Mr. O'Donovan.

Miss Freeman—(to Mr. O'Donovan) You certainly know her better than I do.

Mr. Townsend inquired of Miss Freeman, what description of untruths Brenan told; were they tendered under solemn attestations, or were they untruths that did not involve her veracity to any great degree, were these untruths on trifling subjects?

Miss Freeman—I have heard her tell untruths in the most solemn manner; knows the general character of Bridget Brenan in the prison; witness would hardly believe her on her oath; witness has heard her swear here on her oath, the most dreadful lies.

Mr. Townsend—Will you be good enough to state them.

Witness—Brenan swore positively here, that I said she was no Christian—that is false—the fact was this, the warders told me when I first came here, that Brenan would not hear the Bible read; this was a little after I came here, and before I knew the rules of the Institution; I asked Brenan, why she did not wish to hear the Bible read? Brenan replied, that her Clergyman desired her not; wondering that those who read the Old Testament would not read the Bible, of which it is a part, I said that I thought that those who would not read the Bible, were no more than nominal Christians.

Mr. Dolan said, that the witness corroborated the testimony of Brenan.

Mr. Townsend—Well, indeed, Miss Freeman, I think that saying of your's comes very near what Brenan deposed to.

Miss Freeman resumed—Next day I was told of the existing rules, and I desired Brenan to leave the room when the Bible would be read; I have also heard Brenan say here, that one of the warders threw a knife at her, which was quite false—I know how that was.

Mr. Townsend—How do you know that to be false, Miss Freeman?

Miss Freeman—Oh! I am sure the warder is not capable of doing so.

Mr. Townsend—That is not sufficient—your opinion on that subject cannot avail.

Miss Freeman—I have also heard Brenan swear here, and it is false, that I gave money, that she earned, to Kinsela, a Protestant prisoner—that is false, for I did not pay any money to that person on the occasion alluded to.

Mr. Dolan—Brenan only swore here that she told Miss Freeman that she gave the money to Kinsela.

Mr. TOWNSEND—If Mr. O'Donovan give us a pledge that he will not mention to the prisoners any knowledge of the fact derived by evidence here, we will ask the question.

Mr. O'DONOVAN said, that he would not give them any information of the fact, from the evidence given here. He knew already how the children were all disposed of, and he considered the conduct regarding them as a most serious charge.

Witness—Biddy Jones's child, Catherine Reilly's and Anne Kirby's children, were sent to the Foundling Hospital; there is no other woman whose child has been taken from her, nor any other but the two I have named, who has a child with her; I cannot tell the reason of the two women being now allowed to keep the children.

Examined by Mr. Dolan—The cleaner of a division is a ward's-woman; the ward's-woman has access during the probation week, to the prisoners; knows Betty Delany; when she came here she was a Roman Catholic; she changed to the Protestant Religion; was made a wards-woman after she became a Protestant; she is now a Catholic, for she went back, and is still a wards-woman; knew Rose M'Carthy, she who struck Mrs. Duigan with a bottle; thinks Mrs. Duigan wanted kindness of manner.

Mr. TOWNSEND—There are very many people of rough manners, with kindness of heart—it is a great misfortune to want kindness of manner.

Mr. DOLAN—Even if Mrs. Duigan had what is called kindness of heart, it would be no satisfaction to a prisoner who had experienced her want of kindness of manner.

Mr. TOWNSEND—Oh! certainly.

Examination resumed—Witness thinks Mrs. Duigan was not a judicious officer; thinks she was not as well liked as others.

Mr. O'DONOVAN—Was she not the most severe officer in the prison?

Miss FREEMAN—Oh! I do not know that; she was exactly severe.

Mr. TOWNSEND—An officer, of course, would not evince a severe disposition before Miss Freeman.

Mr. ROWAN—True, sir, she wanted kindness of manner, and that is the reason she is not now here.

Mr. DOLAN—That is not the reason she is not here now, but that she has since got married.

Mr. ROWAN—Oh! sir, you will please allow me to be the better judge of the reason.

Examination resumed—Knows a prisoner of the name of Mary Manning, in this Institution; she certainly did not express a wish to see Mr. O'Donovan at the end of her probation; she is a Protestant, and has been, as she told witness, a Protestant all her life; she has recently expressed a wish to change her Religion; she at times has her name down to be a Catholic, and at other times she has her name down to be a Protestant; she is at present a Protestant; she never persevered for a week, nor for more than two or

three days, in her intention of becoming a Catholic ; has had the same opportunity of knowing whether Mr. O'Donovan gave religious instruction to the prisoner, as she had of knowing that Mr. Higgin gave it, for she visits every part of the house ; is aware of Mr. O'Donovan having taken the women from the work-room to Miss Taggart's room and Mrs. Noble's room, supposes for the purpose of giving instruction, but the women have frequently complained to witness of receiving no instruction from Mr. O'Donovan ; mentioned yesterday that she did not see Mr. O'Donovan giving instruction more than twice ; her admission now is distinct from these two instances ; she has frequently seen Mr. O'Donovan bringing the women down to the rooms ; one of the women, who was brought down on one of these occasions, lately told witness that she never got any instruction from Mr. O'Donovan ; that woman is still a Roman Catholic.—(Witness was pressed by Mr. O'Donovan to tell the name of this woman ; she alleged, that if she told the name, she would lose the confidence of the woman. A considerable pause and some discussion ensued, as to the propriety of the question.)

The witness said that she did not think she ought to tell it. The question was not pressed.

Mr. O'Donovan (to witness)—Do you know that there was an obligation on Mary Frazer to attend Mass on Christmas-day ?

Mr. TOWNSEND—She was under constraint, and she was prevented by superior force from going, and of course, she was not capable.

Mr. DOLAN—Our charge is, that she was not allowed to go to Mass, aswas her duty, although Mr. O'Donovan had access to her.

Mr. O'DONOVAN—I could not well say Mass in a cell for the woman.

Mr. ROWAN—The gentleman says that Mary Frazer had a duty, and that Mr. O'Donovan also had a duty, to perform—he appears to be quite forgetful that I had a duty to sustain.

Mr. DOLAN—That duty was not to keep a prisoner from Chapel on Christmas-day.

Mr. ROWAN—I wonder it is not a charge, that I did not send the prisoners to Marlborough-street Chapel.

Mr. DOLAN—Not while there was a Chapel in the house.

Examination resumed—Does not know that Mr. O'Donovan got any previous intimation of the Investigation, which Mr. Higgin and the governor held in the work-room ; he was in the corridor.

Mr. ROWAN—I will relieve you from all embarrassment. I gave him no intimation.

Mr. DOLAN—If a note had been sent to Mr. O'Donovan, Mr. O'Donovan would be prepared to attend.

Mr. ROWAN—If Mr. O'Donovan had called on me, on my return from England, as was his duty, he would have heard of it.

Examination resumed—The dispute between the women in the work-room, was about Religion. If a person, who was a Catholic, but had become a Protestant, wished to change again, the probation week

should be gone through; never knew any Roman Catholic wishing to become a Protestant, allowed to do so without the probation week. The chaplain, that a prisoner is going to join, has no access to the prisoner in the prisoner's probation; he knows nothing about the change; but the chaplain the prisoner is going to leave, is allowed access.

Mr. DOLAN—Does Mr. Rowan ever go to the Protestants about to become Catholics?

Witness—He does sometimes.

Mr. ROWAN—My admission here will cut that short. I go at all times to all parts of this house whenever I think it right.

Mr. TOWNSEND—Have you known him to go to Catholics about to become Protestants?

Witness—I have, sir.

Mr. DOLAN—When Mr. Rowan goes to a Protestant about to become a Catholic, he argues with him, I suppose, and points out the differences between the Churches, and the errors of the Catholic Church?

Witness—Certainly.

Mr. ROWAN—I freely admit it; I use all manner of inducement of the kind, to persuade them to remain Protestants.

Witness—Mr. Rowan argues in this way to Protestants who were Catholics, and who had become Protestants, and were changing.

Mr. DOLAN—Have you heard Mr. Rowan saying on these occasions, that his own Religion was the best?

Witness—I have.

By Mr. Rowan—Betty Delany is now a Roman Catholic; she is a ward's-woman; has frequently expressed a desire to leave the situation she is in of ward's-woman; a ward's-woman earns 1s. 3d. a week. Two women, besides the one mentioned before, indeed four women including Healy, complained of not getting instruction on the occasions when Mr. O'Donovan brought them down; the women told witness what passed in that room on those occasions; witness declines to tell what they told her.

Cross-examination closed, and COURT adjourned.

Defence—Eleventh Day—October 6.

The COURT met at the usual hour.

Mr. KEMMIS, Crown Solicitor, attended this day, as note-taker, in place of Mr. Carmichael, who, from a domestic calamity, was unable to attend.

Mr. ROWAN stated, that Mrs. Noble mentioned, yesterday, she was about to leave the Institution, and to leave Dublin entirely. and suggested, if the Court wanted her, that it would be well to examine her now.

The COURT expressed their opinion, that it was not necessary to call her.

James Algeo sworn, and examined by the Court.

Is storekeeper and superintendent of the Prison ; has seen all orders given by Mr. Rowan, at the male side, executed ; has seen the head-piece or helmet here ; recollects having put it on two ; the names of these persons were Jeremiah Coghlan and John Walsh (the second) ; is sure he never put it on any other prisoner, or any other person, to his knowledge ; is certain it never was on any other prisoner since he came here ; the helmet remained while he was going from his own ward, in the first division of the second class, to a solitary cell, when it was taken off ; the time was about three, or perhaps four minutes ; it was put on for the purpose of intimidating others from making the noise they were making, and it was immediately taken off by witness, and brought away ; the helmet was never put on Walsh after ; the helmet might have been ten minutes on John Walsh ; it is so long ago, that witness cannot tell the precise time, but it was very short ; cannot tell the time or place when it was put on him ; witness has been taxing his memory, but cannot tell the time or place ; to the best of witness's recollection, it was put on on the occasion when the report of the Inspectors General about gagging, was made ; before the putting on of that head-piece, he was not gagged in any other way ; he might have been, but witness has no recollection, it is so long ; it was in December, 1824, it was the time when five of the men were engaged in the transaction already described ; witness was not at the commencement of that transaction, he was in the rope-walk, and as he was returning from the garden, by way of the guard-house, he was told that some of the guard were in the prison, that the prisoners were breaking out ; on crossing an inner yard, he found a sentry in the yard, and three or four men, who were dragging out the bars of their windows, and were shouting ; this was in the first division of the second class ; on going up to the division, witness found Duffy in Mr. William Bailey's room, in which he (Duffy) had broken the press and the windows of his room, and had got a case of razors out of the press, which, when witness came, were broken ; witness did not see

Duffy in the act of breaking those things; the guard had secured Duffy from doing any further damage; witness then went and got handcuffs and handcuffed him, and put him into his ward again; witness then proceeded to secure the others, who had broken their windows, metal beds, destroyed their bedding, and one of them, John Monaghan, had torn up the floor of his ward, these others were, John Monaghan, John Barron, Jeremiah Coghlan and Charles Gray; witness and the guard proceeded to secure them, and handcuff them; having done that, witness and his assistants left them, it was then near the hour of lock-up; witness forgot to state that John Connell, in the third division of the second class, was at the other extremity of the male side; *he* was excited by the shouting of the others, to imitate their example, and had broken his windows and his bed, destroyed his bedding, and was shouting; John Walsh heard the shouting also, and he imitated the others; witness is not sure that John Walsh broke any thing at that time, for he was so often breaking, that witness cannot remember any particular instance; he spent very little time out of solitary confinement while he was here; the helmet was put upon Jeremiah Coghlan next morning, he commenced shouting on the next morning, as well as witness recollects; (witness here expressed a wish to return to the occurrence of the preceding evening;) at the time of locking up, the governor was out; when the governor came in, witness reported the occurrence to him; witness may err something in the relation of the transaction, it is so long ago, but it is, to the best of his recollection, a true statement; witness left Mr. M'Cloy, Mr. Fitzpatrick, Mr. Keppel, and Mr. M'Clean in the building, for fear of any other outrage, while witness went to report the circumstance to the governor; the governor accompanied by witness, went into the place, Mr. M'Cloy proposed gagging the prisoners to stop the noise, for they were still shouting, ("you know sir," added the witness, "you have it in evidence, that they were heard at the Circular-road;") the governor advised them to keep silent and stop their shouting, or else he should have recourse to the gagging to stop them; witness never saw any one before, nor after, gagged in the house, but has seen soldiers gagged; there was no preparation in the house at the time to witness's knowledge, for gagging, nor was it ever thought of, or talked of, before that time, to witness's knowledge, as a remedy or a punishment, nor was it thought of then as a punishment; witness means "by that time," not the time subsequent to that transaction, but the time of the transaction itself; the convicts disregarded the admonition of the governor and continued to shout in their wards; Mr. M'Clean then went and got a jack chain, a chain about the size of a kitchen jack chain; M'Clean cut that in short lengths, about three or four links, perhaps about six inches long, and it was tied in their mouths, tied across their mouths, the chain went into their mouths and was tied across their cheeks, on the hind part of their heads; the five persons that were the original offenders, were those tied;

there was nothing then done to Connell, but handcuffing him; Connell was handcuffed; thinks John Walsh was handcuffed also; the governor and witness left them then, and went away, leaving only the officers on duty; Mr. M'Cloy was officer of the first watch; there are two officers here each night who take this duty; one who goes round the outer doors before lock-up time, and locks up all the pad-locks, and then returns to witness, gives up the pad-lock keys, joins the officers assembled in the hall, and gives in his report; lock-up time is always by day light, but varies according to the season; one officer of the watch watches until twelve o'clock, and the other watches until bell-ring in the morning; it is the duty of the first officer to go round every hour, from bell-ring until a quarter before twelve o'clock, when he calls the officer of the second watch, and they then go round together and examine every ward, to see that every thing is regular, and that the first officer gives up his charge to the second officer who continues to go his rounds, till bell-ring, on the next morning. If any thing so extraordinary should occur, as that the officer does not wish to act without assistance or direction, the first thing done is this, the first officer, if he is on watch, calls the second, or the second officer of the watch, if he be on duty, calls the officer of the first watch. If the matter be so serious as to require further advice than his own, he goes to the guard-house, pulls a bell that hangs there, and leads into witness's room, and witness immediately attends. The officer of the night watch visits the sentry in the inner yards every hour; that sentry is so posted, that he has a view of all the sleeping apartments of the prisoners; any thing that the sentry hears or sees since the officer last visited him, he reports to the officer, such as striking of lights, standing up in the windows, prisoners speaking to each other, or passing anything to each other, or passing any thing from the windows; they could have done this, and have been detected in doing it; the way they have of communicating by letter is this—they sometimes secret the twine of their loom, or make cotton cords, they tie a stone to the end of the string, and attach the letter to it, they then swing the letter, and the man in the adjoining window is prepared, and catches it: to return to the gagging; the officer of the first watch that night, was Mr. M'Cloy, about eight o'clock he came to witness, and reported that the chain was insufficient to prevent them shouting, and that they had taken the chains out; M'Cloy proposed door keys or door handles to be used instead of the chains; the prisoners were shouting as before; witness heard them as soon as he came into the yard; witness then went to the governor and told him the circumstance, and obtained leave to apply the keys or door handles; witness and his assistants the two officers of the watch did put them on the five; witness thinks that they put them on all; Connell as well as the rest, for he had joined the others; that being done, witness returned to the governor, and told him that it was done; the governor said that he was

very anxious that they should not be hurt more than was necessary, and accompanied witness again into the building to see them; on going into the division, the governor went into each of the wards where the prisoners were, and on their promising to be quiet, and not to shout again, he had the keys removed; they could be understood although they had the keys in their mouths, they could say "yes," so as, with the gesture accompanying it, to be understood; the gags were all removed as far as witness can remember, before twelve o'clock; cannot tell how it happened that the helmet was put on John Walsh, it might have been next day or the day following, it was some time connected with that transaction; is certain that if any time it was on him more than ten minutes, it could not be much longer; witness had put the helmet on, and then came up to this office and went across the street to the house where he lived; he does not know for what purpose; he could not have been away for more than fifteen minutes, and cannot say whether he went to eat a meal or for any other business; cannot say whether he went to his own house or not; but on his return he found the helmet broken at the store door, and was told the prisoner had broken it.

Mr. DOLAN—I think it right to say that the witness is now referring to notes in the hand writing of Mr. Rowan.

Witness handed the notes to Mr. Rowan, declaring that he did not use them; the witness had other notes in his hand, which he said were extracts from books kept in his own hand-writing.

Mr. TOWNSEND said, that the witness might refresh his memory by notes taken in his own handwriting; but no memorandum or abstract that was copied, could be itself received in evidence: the book from which it was copied should be produced.

Witness proceeded—Knows the cage, where John Walsh was confined, he might have been there five nights; witness is not sure he was there so long; he was only there once; if it be in evidence that on one occasion there was a prisoner whom he struck, it is false; he has, on several occasions, laid hold of prisoners, and used as much force as he could to save himself, and subdue them; self-preservation being the first law; when M'Clean swore that witness struck John Walsh, he said what was entirely false, as can be proved to be so by a bye-stander; he may have struck one prisoner in self-defence; recollects having never struck John Walsh; is sure he never struck him, but is sure that he has prevented M'Clean from striking Walsh; believes he (witness) once struck M'Cann; struck him at the time that he broke every thing in his ward, and when he (M'Cann) struck Mr. Fitzpatrick in the face with a stone; witness believes he (witness) struck Graham, who is now in the hulk; after M'Cann had thrown the stone, which witness believes was aimed at him, and when he got into his ward and closed on him (M'Cann) he (witness) struck M'Cann; witness is not sure that he might have struck Graham, at the time he attempted the life of Mr. Somerville. Witness is sure he used

every kindness, forbearance, and humanity, and endeavoured to inculcate such feelings towards prisoners. Never saw the helmet from the time it was broken until he saw it on this Investigation; and when produced here it was in the same state, as well as witness can remember, in which it was when witness saw it broken in the store-room. Since witness came here there was not, to his knowledge, more than one head-piece; witness does not ever remember having seen two of them. Has never seen Capper struck or beaten by any officer of this place. Remembers a prisoner of the name of Glover; he is not here now; never saw any gagging used on him; he was never gagged since witness came here; he was in a strait waistcoat when witness came; if he were gagged witness should have known it, as it should have occurred in his department. Witness came here in June, 1823, shortly after Mr. Rowan; Glover was subject to epilepsy then, and he had the strait waistcoat on for the purpose of preventing him from injuring himself or others; and witness understood he (Glover) had been always before that ill-conducted; Glover became better conducted after; he was of a very irritable disposition; witness often thought he was not quite sane; which made witness treat him more kindly; Glover was afterwarde put to the trade of shoemaking, and became a good shoemaker, so much so that when he left this he made a good pair. Glover was always a Roman Catholic, and one of the most superstitious sort; and witness believes that, in all religions, those who are not sane are the most superstitious.

Mr. DOLAN—Aye, and the most fanatical.

Witness proceeded—Remembers M'Cann in solitary confinement; thinks he was there nearly a month; M'Cann was breaking his loom, his metal bed, and destroying his bedding, in short everything in his place; he repeated this offence afterwards; M'Cann was twice in solitary confinement, and each time for the same offence, his last offence was in June; thinks M'Cann was not quite so long in his second confinement; the general crime of John Walsh was, for insolence to his officer, singing profane songs, shouting and destroying things in his cell.

The following abstract of Graham's, Russell's, and John Walsh's punishment was here handed in by Mr. Rowan:—

Punishments inflicted on JOHN WALSH (the second) and JAMES MAGRATH.

NAMES.	PERIOD. From	PERIOD. To	Number of days.	Observations.
John Walsh the second.	7 Nov. 1824,	11 Nov. 1824,	5	Bread and Water.
	25 Ditto,	1 Dec. do.	6	
	15 Dec. 1824,	27 Ditto,	13	
	5 Jan. 1825,	8 Jan. 1825,	4	
	3 Feb. 1825,	12 Feb. 1825,	10	
	21 Ditto,	2 March, do.	7	
	7 March, 1825,		1	
	30 June, 1825,	16 July, 1825,	17	
James Graham.	10 Feb. 1826,	13 March, 1826,	32	Solitary confinement, on bread and water, and No, 1 diet.
	Ditto,	12 Feb. 1826,	3	
	13 Ditto	19 Ditto,	7	

James Graham was on prison diet twenty-two days of the time that he was in solitary confinement.

Mr. TOWNSEND, in reply to an observation, said, that those papers were evidently copies from a book, with which he would compare them, if the prosecuting party wished.

Witness continued—It was about the end of February that Walsh was in the rope-walk; the first three days of Graham's solitary confinement, his diet was bread and water.

Mr. DOLAN objected to this evidence being received, if it was merely a note taken from the book—the book itself ought to be produced.

Mr. TOWNSEND said, that there was no necessity whatever—a witness might refresh his memory, by reading books kept by himself, and need not produce the books.

Mr. DOLAN—My object, sir, is to see the books. The abstracts just handed in are taken from books—surely those books ought to be produced.

Mr. TOWNSEND—If any fact be proved from a book, you de-

cidedly have a right to see everything in that book relating to the subject ; I am unwilling to read any book that you shall not have the privilege of reading ; I would much rather form my report upon evidence that was open to all parties, and I must say, that the Commission under which we act, would not warrant us in exhibiting the books of this Institution to any one, but those belonging to the Institution.

Witness proceeded—The next seven days he was on No 1, hospital diet, ordered by Dr. Orpen ; the remainder (22 days) of his confinement, he was on a regular prison allowance ; while M'Cann was in solitary confinement, he was ironed and handcuffed ; cannot be certain that he was ironed and handcuffed all the time ; the second time he was in stocks, and having broken them, pulled up the pavement of the small yard, he was put into irons ; this was during the absence of the governor in England, from whom, on going away, he got a letter directing him how to act ; witness thought it necessary, from the governor's directions and from his own feelings, to allow M'Cann as much exercise as possible, and he allowed him an hour's exercise in the small yard ; when the officer in charge of him let him out into the small yard, he incautiously left the cell open in which the stocks were ; M'Cann tore up the pavement in the yard, brought the stones into his cell, and with them broke the stocks ; Mr. Wood, the schoolmaster, and the officer, went to see what M'Cann was about, and he began to throw the stones at them ; Mr. Wood very narrowly escaped ; witness then was compelled to have him put in irons ; this was the second time of M'Cann breaking the stocks ; the first time he broke them, he had them on his legs, and it is after that they were eased in iron ; the first time he broke them, he amused himself by dirtying the walls of the cell ; while persons were under this restraint, it was the practice of witness to visit them every second or third day, for the purpose of seeing would they confess sorrow for their conduct, that witness might recommend to the governor that the constraint should be removed ; at all times the governor has taken the earliest opportunity of liberating them.

Mr. TOWNSEND said, that he thought, supposing the statement of facts to be true, that there was too much lenity shown. He (Mr. Townsend) had no notion of a man breaking through all rules, and violating discipline, and destroying property, was to be treated with lenity all at once.

Witness here referred to Major Palmer, to affirm, that while he was here in charge, during Mr. Rowan's absence, he found him pursue such a practice.

Major PALMER said, that he had no reason to complain of Mr. Algeo.

Mr. DOLAN suggested, that as Major Palmer would present a report to Government, it would be as well if he did not deliver his opinion of Mr. Algeo, for the present.

Major PALMER said, he had no intention of giving any opinion

on the subject—in fact, he did not often come here during the period referred to by the witness. He (Major Palmer) left the business principally to him (witness.)

Witness proceeded—The governor said at all times to witness, that he wished no unnecessary constraint to be used, and that the constraint was not to be used for punishment, but for safety; remembers firing a pistol into Bulbridge's cell; on his oath, it was only loaded with powder, and the common wadding; there was no more than the one shot fired; charged the pistol a second time, also with powder. Remembers the last pardon in April last, when many persons were discharged; one of them was sent back, and detained, but not on account of any thing he said to witness; the reason of his detention was this: there could be only three or four of a day let out on account of their clothing not being ready, it being made in the house by the tailors of the prison; the man in question (M'Laughlin) was one of them that witness had named to the governor to be let out that day; for the week before that day as soon as he found he was to be pardoned, he had been reported invariably by his officer, as being incorrect; he was not at all officially told of the pardon, but he suspected that he was to be pardoned. On his coming to the store to get his clothing, witness found that he had a bag made out of a piece of a sheet; that he had cut one of the prison sheets for that purpose. When witness saw him in the store, witness said to him, "M'Laughlin, I did not think you would behave ill; I think you have been behaving in a way that would show to the governor and to the Government, that you have a right not to be pardoned." He (M'Laughlin) answered witness in a very insolent and disrespectful manner; that "the governor had kept him as long as he could, that he did not thank him (the governor) for his pardon; that he would keep him longer if he could." Witness, therefore, considered it his duty as a sub-officer of this house, to send him back to his division until he would acquaint the governor of the occurrence, which he did that evening. Witness further added, that if the government of the place rested with witness, he would have communicated with the Government on the subject. To the best of his recollection, M'Cloy, who deposed to the firing of the pistol, was not present at all, when the firing took place.

Examined by Mr. Rowan—Was present when Keppel described an altercation between him and Mr. O'Donovan, with regard to Mr. O'Donovan desiring to see a prisoner (Elliott) on the morning of the dispute between Keppel and Mr. O'Donovan; witness was in the office with Major Palmer, who was then acting for the governor; Mr. Crofton was also present; Mr. O'Donovan came into the office and appeared something agitated, and said he wanted to speak to Major Palmer in private; Mr. Crofton and witness were about to retire, and Mr. O'Donovan said, he did not wish Mr. Crofton to go out. Witness went out and was not more than one minute when Major Palmer called witness, and asked witness was there any rule

against Mr. O'Donovan seeing any of his people without an order? witness replied there was not, unless the prisoners were in solitary confinement. Mr. O'Donovan then said, that he had been hindered of seeing some prisoners, whom he wanted to see, by Mr. Keppel. Major Palmer told witness that if the officers erred through ignorance of the proper rules, and that he applied to Mr. Rowan, he would at once give him an order, or that in his (Mr. Rowan's) absence, if he applied to witness, he would give him an order immediately. Mr. O'Donovan answered to that in a very angry tone, that "he did not know Mr. Algeo, nor would he ever communicate or take any directions from *him*." Major Palmer answered, that he (Major Palmer) was not going to enter into a quarrel, and that the matter might stand over until Mr. Rowan came home, and that he (Mr. O'Donovan) might then report it. This occurred in the month of June or July, 1825. Major Palmer remarked at the same time, that any orders he (Mr. Rowan) had given, he would himself explain to Mr. O'Donovan on his coming home. Remembers Thomas Martin here, and hearing evidence against him; after breaking his loom, and being put into the stocks, there was an order that where the stocks were, the door of the cell, which was in the yard, should be left open occasionally, in the course of the day, to allow air to enter; the door was open occasionally, as the weather permitted; the officer who had Martin in charge, had visited him from after dinner until supper time; this was in December; on going to the cell, the officer found that the man was gone; this was at supper time; Mr. Flanagan was the officer; witness, on hearing the report, went down into Mr. Somerville's room, thinking he might have got into the yard; witness did not find him there, but happening to look up, he saw him sitting on the top of the house; witness saw and spoke to him, and asked him to come down? He replied, that he would if witness would restore him to his own ward; witness could not enter into a bargain with him, but he told him that he would go for the guard, and see would they bring him down; witness went for the guard, and on coming they found that he had changed his place, and had got to another part of the room, the governor saw him then getting down; there was a small water-pipe by which he came down.

Mr. ROWAN said, that he planted a sentry at one side of the house, and ordered him to load before the prisoner, and then went to the rere, and planted a sentry, ordering him also to load. When this was done, he desired Martin to come down, that there was a small water-pipe by which he ascended, and that he could come down by the same means, and that if he did not come down instantly, or that if he went either to one side or the other, he would be shot; Martin then came down. Mr. R. said, that he examined to this fact, for the purpose of showing that the prisoner had escaped, though he was in the stocks.

Witness proceeded—There are many persons in this place who were never punished; there were only a very few, who have been

punished in this very coercive manner at all; there is a small class that is severely punished, a second class lightly punished, and a third class that is not punished at all is the large proportion, and more than the other two, according to witness's knowledge of the persons confined here; according to the construction of the house, witness does not think the restrictions greater than the safety of the officers required; witness's opinion is formed upon this, that officers, one of whom is still in the house, told him that they would be obliged to resign their situations unless there were more pains taken for prisoners' security, that is, for their own (the officers') safety. M'Cann has told witness, on reasoning with him, that he had taken every means to get out of this house but one, and that he would take that the first opportunity, thereby meaning, in witness's conception, that he intended to take the life of some in the house.

Mr. Townsend said, that if that meaning be in the words of the prisoner, it was certainly a very sure way of removing him from this house.

Witness—Oh! aye, sir, and this Investigation confirms them in their opinion. This Investigation has done a great deal of harm.

Witness proceeded—On all occasions, where Mr. Rowan has found it necessary to use the civil or military force here, he used too little violence, for witness has heard the military refuse to act, when they would not be allowed to act on equal terms; means by equal terms, that if they were allowed to take the life of a turbulent convict, they would rush in on him, the man being armed with a piece of his loom or his bed, ready to strike the first man of them who would enter; the military refused to act unless they would be allowed to fire.

Mr. Townsend—Oh! I can't see the meaning of that; the determination is certainly a natural feeling in the military, but such an alternative would be dreadful; and I think, under such circumstances, the governor acted with propriety in not allowing the military to fire.

Witness proceeded—Has heard it sworn here that Mr. Rowan threatened the prisoners if they made any complaint to the Inspectors-General.

Mr. Dolan said, there was no charge of the kind made by the prosecution.

Witness continued—Has been in the habit of accompanying the governor through the male side of the house, before the general inspection; going round the different divisions, and telling them as they had no way of communicating to Government, but through the Inspectors-General, they should complain, if they had any complaint to make, and not only that, but if they had a complaint to make, to give it to him, and he himself would forward it to Government; has heard the governor, in the presence of the Inspectors, press the men to tell anything they had to complain of, and has heard him tell them that he (the governor) would withdraw for

the purpose, which witness has seen him do. The officers, male and female, who have Roman Catholics under their charge, attend in the Roman Catholic Chapel during Divine Service.

To a question from the Court—There are divisions in which there are no Roman Catholics; there is more than one.

It is necessary the officers should attend them; witness himself smiled in the Chapel; it happened once on a particular day; it was the first and only day that Mr. O'Donovan went up to the pulpit; he, on that day, had a very particular cap, which witness never saw on him before; on Mr. O'Donovan ascending the pulpit, the hall-maid (Esther Morgan) smiled; she is a Roman Catholic, she smiled, and indeed Mr. O'Donovan smiled; believes there was not in the Chapel either Protestant or Catholic that did not smile; Mr. O'Donovan took off his cap and said, "I suppose you are all laughing at my curious cap, it is the cap of my order, I have not worn it before, but I have now received orders to wear it." Has known Walsh (the second) in irons; he contrived to disengage himself frequently from those; he hid those irons when he was in the "cage," and witness could not find them; he hid them on on another occasion, in one of these solitary cells with the earthen floor.

Mr. Townsend—Have you ever seen a rat hole in one of these cells?

Witness—I have, sir, or at least I have seen a hole; probably it was made by Walsh, for he used to make holes like a rat; I have never heard any one else but Walsh complain of rats, but he has complained to me; I have never seen a rat there.

Witness proceeded—Remembers the Catholic congregation being sent away from the Chapel without Divine Service twice; they were sent away before Mr. O'Donovan came; Mr. O'Donovan's non-attendance in due time, was the occasion of their being sent away; whenever hours here are not regularly attended to, witness invariably finds that the whole detail of the system is put wrong; eight o'clock is the appointed time for Mass, and the congregation was dismissed at twenty or twenty-five minutes after eight o'clock on these two occasions; has seen Mr. O'Donovan on the last occurrence after it happened; Mr. O'Donovan spoke to witness; he (Mr. O'Donovan) used some threats; the hour for the prisoners going to breakfast is nine o'clock; witness has frequently directed that the officers should keep the prisoners a quarter of an hour after the time appointed; ten o'clock, after breakfast, is the Church hour; between nine and ten o'clock, the prisoners have to get their breakfasts, and the officers have to get theirs; the prisoners would not be kept five minutes waiting for Mr. Higgin; remembers on one occasion, when Mr. Higgin was not in time, the governor, when the bell had done ringing, ordered the prisoners back to their divisions; the bell rings five minutes; remembers a prisoner here of the name of Carey; he is a carpenter; he changed his Religion;

he was working at his trade as a carpenter, before he changed his Religion; a carpenter is the most lucrative situation here.

Mr. Townsend—Was Carey bred a carpenter?

Witness—(After a pause) He was, sir; when he came here he could work very well; and told me he had served a regular time

Examination resumed—Patrick Connor (a convict) is the head carpenter here; he has higher wages than the other carpenters; he was in charge of the carpenters' shop and tools, and was engaged teaching persons when witness came to the house, and has remained so since; Connor's is a confidential situation; the most confidential situation that a prisoner here could be placed in, for he has charge of the tools; Connor changed his Religion from being a Catholic to being a Protestant, about a year since, and was never suspected until he did change his Religion; witness suspects him now; while he was a Catholic he had young lads in his shop teaching them their trade, and had opportunities, if he wished it, of influencing them to change their Religion.

Mr. Rowan stated, that the object of this was to show that while Connor was a Catholic he was confidentially employed; and also that, while a Catholic, he had opportunities of influencing the minds of Catholic boys, if he pleased, and that these afterwards became Protestants.

The Court adjourned at the usual hour.

Defence—Twelfth Day—October 9.

The COURT sat at the usual hour.

James Algeo's examination resumed by Mr. Rowan.—Prisoners are allowed to change their Religion, according to the rule, without any restriction. The rule is this—if a prisoner desire to change his Religion, he notifies it to the officer under whose charge he is. The officer mentions in his morning report, that such a prisoner wishes to see the governor, to get leave to change his Religion; the governor then goes, and witness generally accompanies him when he goes and speaks to the prisoner. This was the rule previous to the Investigation; but since this Investigation, the governor has declined speaking to a prisoner at all on any account; the governor asks the prisoner, why he changes his Religion? this is the uniform course; if he gives no reason, the former tells him he will not allow him to change his Religion unless he gives a reason for it, for he will not allow him whether he be Catholic or Protestant, to change his Religion, from any whim he may take to his chaplain; for a change of Religion is a matter between man and God, and not between man and man; the governor says, that if he is making the change from conviction, he will be allowed at the end of the week to go wherever he pleases; the governor requests the prisoner, at the same time, to think seriously for a week, and to pray to God for his direction; at the end of the week the prisoner makes his choice, and goes accordingly; in case the prisoner was a Protestant and wished to go to the Catholic Church, witness has heard the governor use persuasion to prevent him going; witness means by persuasion, argument.

Mr. DOLAN—Although generally speaking, the use of argument is unobjectionable, still, considering the relation in which the parties stand towards each other—argument carries with it something more than mere persuasion.

Examination resumed—The kind of argument was as to to the truth of the Religion, which the governor himself professes; the governor himself tells them (the prisoners) at the same time, that his (the governor's) conduct towards them will not be influenced in the least by their going to Mass, or remaining at Church; the governor says exactly the same to all; that is, that he will not be influenced in his conduct by any change they may make; the governor never enters into arguments with Roman Catholics, until after they have gone to Church, and then he takes opportunities of discoursing with them along with the other Protestants; has never known any instance in which the course mentioned was departed from; the governor tells men about to leave the Catholic Religion, and become Protestants, that he would look stricter after them, on account of their being Protestants; when

witness said that he never knew the rule to be departed from; he wishes that he should be understood to say, that prisoners are not allowed to change more than three times.

Cross-examined by Mr. Dolan—At all times the governor sends the Roman Catholics out of the room when he is going to speak on Religious subjects with the Protestants; the cause assigned by the governor to witness for that is, that as they (the Catholics) were of a different Religion, he should not wish to offend them by talking before them on Religious matters, different from their Religion; has never known any difference of treatment by the governor, between Protestants and Catholics; there was at one time an impression made by some means upon the prisoners here, that the governor was more favorable to Catholics than to Protestants, and that he got them sooner liberated; at that time the governor took Mr. Higgin into one of the divisions of the house, to explain to them, that he was not more partial to one than the other; witness was with them that day; witness never asked M'Cann, who was examined here, to change his Religion and become a Protestant. On M'Cann coming into the house, witness explained to him, as is in general the practice, the rule regarding the probation; witness told M'Cann, that there were here a Protestant and a Catholic chaplain; while witness was saying so, M'Cann interrupted witness and said, he (M'Cann) was always a Protestant; witness told M'Cann, that he did not ask him at all what he had been; witness said that at the end of the week he might go wherever he pleased; that there were no questions asked until the end of the week; this was all that passed at that time between M'Cann and witness; witness never, to M'Cann, or any other man, said any thing tending to induce him to become a Protestant.

Mr. ROWAN here observed, that he was sorry to say, he had two men and one woman in the solitary cells to-day.

Major PALMER—said, he did not think they ought to be there after what the doctor has said, in his evidence of them.

Mr. ROWAN (apparently displeased at this observation) was about to explain but was requested by Mr. Townsend to defer his remarks.

Cross-examination resumed—Witness has never known, here, any attempts to proselytise; if witness learned that such attempts were made, he would feel it his duty to report them to the governor, as he would consider them highly subversive of the rules and discipline of this house; witness would find it his duty to report to the governor every thing contrary to the rule.

Mr. ROWAN—Aye, and indeed you have done so, most faithfully. —(To Mr. Townsend)—And you see, Sir, such conduct has caused for him all this hostility."

Resumed—Witness has never explained any controversial passages of the Scriptures, when Capper was present; at one time, in a division where Capper was witness, remembers that he read some chapter out of Paul's Epistles; the schoolmaster was not there, and there had been a dispute amongst the prisoners; witness went

in to Mr. Bailey and said, that he would read a chapter, and that if the men liked they might listen to him; witness read a chapter inculcating peace and unity amongst the prisoners; witness deduced from this, in an advice of some length, the necessity of their living in peace; witness forgets the chapter; witness disapproves of controversy.

Mr. ROWAN—Mr. Gregory was so little aware of existing objections, that I remember him requesting that Mr. O'Donovan and Mr. Higgin would propose a form of prayer that would be so suited to Protestants and Catholics, that the prisoners could pray together.

Cross-examination resumed.—There is a master-key left with the hall porter for the use of Mr. O'Donovan at all reasonable hours; there was a time when if Mr. O'Donovan came before eleven o'clock, he might have a difficulty in getting the key, as the doctor might have it in use; to obviate that, there was a key got for the doctor's exclusive use; witness begs to correct a mistake which Mr. O'Donovan made; Mr. O'Donovan swore that there were rappers on the doors, and witness is positive there were never rappers on, or taken off, since witness came here; there were what may have caused Mr. O'Donovan to mistake—on the outsides of the doors there were bolts for padlocks; those bolts were all loose, and were frequently used as rappers; witness had them fastened down with a staple after Duffy had bolted in Mr. Bailey, his officer; witness knows that the governor himself has suffered inconvenience from the want of a master-key. Generally speaking, the prisoners who have suffered the greatest punishments are professing Protestants; in Duffy's first punishment he wss a Catholic; in his last punishment he was a Protestant; witness does not think that the Protestants are worse conducted; thinks the change of profession did not change their principles, but he does think those converts were not well conducted; witness thinks the converts who were punished had never any Religion at all; does not think the Protestants who were punished had any Religion either.

Mr. DOLAN—I would be obliged, sir, by your taking down the declaration of the witness, that the change of Religion did not change their principles—it may be important.

Resumed—Witness only remembers one individual who was severely punished and transported, who was a Catholic; the rest were professing Protestants—the one witness alludes to was Monaghan.

Mr. DOLAN said, that Mr. Rowan was endeavouring to disprove what was not alleged at all—that is, cruelty to a Catholic for being a Catholic; the charge of cruelty and proselytism are distinct and separate.

Mr. TOWNSEND said, that the Memorial certainly did put it forward, although it did not appear that Mr. Dolan had pressed it since the Inquiry.

Mr. DOLAN said, if he had seen the Memorial before it was presented, no allegation of cruelty for the direct purpose of proselytism should have appeared in it.

Mr. TOWNSEND replied, that he was sure if Mr. Dolan had seen the Memorial it would have been differently drawn up, not that he meant to imply that the present would be less efficacious.

Examination resumed—The dietary issued to prisoners during the probation week is the same, unless on Friday; on Friday, witness orders milk for every person coming in; on Saturdays milk is the usual diet for all prisoners, at all times. The reason of giving milk on Friday during the probation week, is in order to give offence to no one, not knowing of what Religion the prisoners may be; since witness came here, meat or broth was never issued to any prisoner on Saturday. Has heard some prisoners say, that they would much rather go to Botany Bay, than be sent here, and that they were not sentenced to come here; they generally use violence to get sent away; Graham, Bulbridge, and Kelly, used violence, and in the cases of Duffy, Monaghan, Barry, and Coghlan, they committed outrages to get away; witness generally going through the wards, looks at the books that he finds on their tables and beds; has never found any books that ought not to be there; if witness found any controversial books there, he would think it his duty to take them away; would think it his duty to take away controversial works, either for or against Protestantism. It is not true that Capper was punished for five days on bread and water, for stating that the Virgin Mary had no more sons than our Lord; Capper was ordered three days on bread and water for having a knife concealed in a hole which he had cut in his jacket, and for insolence to Mr. Wood, the schoolmaster; the insolence to Mr. Wood was, for refusing to say his lesson, or something at school.

Mr. DOLAN—Aye, something at school.

Mr. TOWNSEND—Do you know the particulars?

Witness—No, sir, I merely heard it from Mr. Wood.

Examination resumed by Mr. Townsend—As far as witness remembers, the knife was cut in gaps to make a saw; he believes the master tailor examined the clothing, as it is his custom every week to see have the prisoners made any alteration; and witness believes that then the master tailor discovered it; witness cannot say whether the knife was found by the master tailor, or by the officer of the division; it occurred so long back in 1824, that witness scarcely recollects it. During the three days Capper was insolent to his officer, and refused to give up to his officer a large brad-awl, which he used as a chisel, and for that offence, two days were added to his punishment, which made up the five days.

Mr. ROWAN here was proceeding to explain the nature of the rules, and was requested by Mr. Townsend to discontinue giving his explanations, as they had the effect of suggestions to the witness.

Cross-examination resumed by Mr. Dolan—Prisoners, on coming here, are never clothed until the doctor reports that they are freefrom all contagious diseases; they are never allowed to appear amongst the other prisoners until they are clothed; in consequence there have been cases where men were prevented from going either to Church or to Chapel, for three weeks or a month. If witness remembers, William Connell, a Catholic, and William Atkins, a Protestant, were cases of this kind; Atkins is now "an *Investigation Catholic*;" witness means by that, that he has become a Catholic since this Investigation, and was always a Protestant before; witness wishes to say of Atkins's case, that after Atkins had entered on his last probation, in the middle of the week, he sent for him to say he would go to Church; witness said he would not allow him to go until the end of the week, and that he might then if he liked; he was angry at this, and at the end of the week, he went to Mass, and still continues to go; the practice with respect to prisoners in solitary confinement, has been uniformly to give those in solitary confinement, who could be trusted, their bed and bedding; those who have destroyed their bed and bedding, before they were sent to solitary confinement, have uniformly got straw and rugs; the order was, that they should get a rug, but the rugs being small, witness gave two; the straw, rugs and bedding, are taken out of the cell the following day; twenty-eight pounds of straw are allowed to each man for his bed, but when he has no bed, he gets double allowance, fifty-six pounds; this is four times as much as a soldier in barracks is allowed. Witness was a soldier nineteen years; was acting serjeant-major in the 52d Light Infantry; witness counts twenty-one years in consequence of being at the battle of Waterloo. Witness never knew soldiers in solitary confinement allowed bed or bedding; witness has seen the soldiers in solitary confinement wear their own grey coats and clothing, and where they have exceeded a month, witness has seen them allowed a blanket; in witness's regiment, the common place of confinement was the guard-house, where they lay on the guard-bed in their coats, and they went every second day on guard; and after they came off were sent to punishment drill; if the serjeant of the guard allowed a rug or a blanket to come into the guard-room, he would be assuredly broken. Recollects when Walsh (the second) was removed from the rope-walk, the governor saying to witness, and sending him a memorandum stating, that Mr. Todd had seen the place, and declared it was unfit, and that on that account, Walsh should be removed; witness is sure that Walsh was not then more than five days or nights in confinement; Walsh was removed the same day that Mr. Todd saw him; witness removed him immediately after getting the order from the governor; has seen Duffy when he was in solitary confinement, in irons; Duffy had plenty of libery to stand erect if he wished; witness is certain that the shortest chain that ever connected the hands and the irons on the feet, were eighteen inches long, besides the chain of the irons themselves, that reached to the knees; witness does not believe he had at all a ball with him

the time he fired the pistol into Bulbridge's cell; witness may have been imprudent in doing so. Recollects Carey having been a night in the stocks, because he had broken the wooden handcuffs, and it was thought right that he (Carey) should see that he should not master the punishment; the next morning witness went to him; he (Carey) declared that he had not broken them designedly, and the governor said that he would take that excuse and would let him out of the stocks; he was in stocks only one night, but he remained in solitary confinement eighteen days; witness is certain he was not more than eighteen; during that time he had his bed and bedding, unless the night he was in the stocks; while he was in them he had mats under him, and two old rugs; recollects John Lynch having a strait-waistcoat on him.

Mr. TOWNSEND here observed, that he had received a letter from a person who had been an officer here, dated from *Chapelizod*, stating that he could give very important information respecting severities used here.

Mr. DOLAN expressed his ignorance of the application being made.

Mr. TOWNSEND said, that it would require a very peculiar case to warrant a departure from the usual course; if there were anything material to prove, however, and that could only be ascertained by his stating on paper what he could depose to, the Court would consider the propriety of calling him; but, unless his evidence was very material, and tending to prove something that had not yet been proved, it was not likely that, at this advanced period of Mr. Rowan's defence, it could be received.

(One of the officers mentioned the name of the individual whom he supposed was the writer.)

Mr. ROWAN said he would not now enter into any argument upon the subject of any witness being examined. Mr. Rowan further stated, that the individual who had written the letter, had been dismissed from this three years since, for being drunk; he had twice offended in this way.

Mr. DOLAN said he would take care to inform the writer of the opinion of the Court.

Examination resumed—Bernard Murphy, to witness's belief, was not present when the shot was fired into the cell; he (Murphy) was in the garden witness believes; does not think that the solitary cells are safe, so as to secure the prisoners; witness has known Duffy get off handcuffs, and make his way through the wall; has known prisoners in solitary confinement get their choice either to remain there or go to work.

By Mr. Townsend—When soldiers were confined on bread and water, at least in witness's regiment, they got a pound of bread; witness has known men confined three months in solitary confinement in solitary cells, or a black hole; witness cannot tell, however, whether they got nothing but bread and water during that time; witness cannot tell how long he has known a soldier confined on

bread and water; cannot say that he has known a soldier to be confined for seventeen days; did not inquire about it, for he did not think he would be examined. Remembers why Lynch was confined in a strait waistcoat; believes it was for making an attempt or threatening to take away his own life, and it was put on him to prevent him doing injury to himself. Has never known Mr. O'Donovan, unless in Chapel on Sunday, to give any moral, religious, or literary instruction.

Mr. TOWNSEND—Might not Mr. O'Donovan give a prisoner a great deal of religious instruction without your knowing it?

Witness—He might.

Mr. ROWAN—Have you ever heard the prisoners complain of Mr. O'Donovan's neglect?

Mr. DOLAN—I believe, sir, if we are to take the opinion of the prisoners as conclusive, Mr. Rowan or Mr. Algeo will not appear entirely innocent.

The question was not urged.

Examination resumed by Mr. Rowan—Remembers the governor assembling the male officers, and giving them strict charge to mention nothing of this Investigation, but the prisoners knew of it twelve months ago; witness reported this to the governor, but, added witness, "neither him nor I could think Mr. O'Donovan would be concerned in it, and we, therefore, did not take any notice of it." When Walsh was bolted and pinioned, he could always take off the chains; has known prisoners with their hands fastened behind their backs, bring them round.

By Mr. Townsend—There have been a great many conversions here; there are several causes for them in witness's opinion; thinks the grand primary cause is, the reading of the Scriptures; the reason for thinking that is, that several prisoners who have changed, have told witness that it was from reading the Scriptures, they were convinced they were in error; the secondary cause is the attention paid in instructing the Protestant prisoners in the principles of their Religion, by the chaplain and the other officers of the prison, which witness thinks excites jealousy in the Roman Catholics, as they do not get so much instruction; witness thinks that curiosity influences them to change, they being curious to know the instruction given by the chaplain and officers; witness thinks when a thing is forbidden, people are anxious to try what it is; witness thinks it is very probable that the prayer that is daily offered up in the Protestant Church, and which witness, whether in family or private, daily offers up, may have an effect, for witness thinks that prayer produces a bond of peace, unity of spirit and righteousness.

Mr. DOLAN—How many of those conversions have been sincere, in your opinion?

Witness—I believe that no man knows the heart of another—God judges the heart of man, but as far as I can judge, from the circumstances that have come to my knowledge, I think more sin-

cere conversions have occurred in this house, than insincere conversions.

Mr. DOLAN—If there were Catholic officers in the prison, would not that regulation have the effect of keeping the Catholics in their own communion?

Witness—I do not wish to answer that question; I have so much knowledge of the Catholic Religion, that I do not like to answer it.

Mr. DOLAN—Give the answer, sir.

Witness—If I must give my opinion, it is, that if Catholic officers were here, the intention of Government would be entirely frustrated.

Mr. DOLAN—What do you mean by that?

Witness—(embarrassed)—Why, there is so much disagreement here with the few Catholic officers that are here, that if there were more, it would be bad.

Mr. DOLAN—What do you mean by the intention of the Government being frustrated?

Witness—As far as I can understand, it is the intention of the Government that the prisoners here should be instructed in the Scriptures especially, and in literary instruction; I understand that Government wishes that the prisoners should read the Scriptures, and, therefore, Roman Catholic officers, from the tenets of their Religion, could not be allowed to instruct; perhaps if the Roman Catholic prisoners were separated in an Institution by themselves, Roman Catholic officers, for anything I know, might be better.

Mr. DOLAN—Then, having stated that, in your opinion, the reading of the Scriptures necessarily makes converts, and that Government wishes the Scriptures to be read, have you acted here under the belief, that the Government wish to proselytise here?

Mr. ROWAN rose to protest against this line of cross-examination; it was not right that a witness brought here to prove certain points, should be sifted and asked on matters that he should be supposed to know nothing of—why should the opinion of this individual be asked.

Mr. TOWNSEND entirely disagreed with the observations of Mr. Rowan.

Mr. ROWAN—If it be proceeded in, it will bring down offensive answers.

Mr. DOLAN—That is what I want—I want to show the character, the *animus* of the deputy governor of the establishment.

Mr. ROWAN—Then, sir, I beg to tell you, that his character is above your aspersions.

Mr. DOLAN—I am quite sure, Mr. Rowan, you think his character is above all suspicion.

Mr. TOWNSEND here said, after some consultation with Major Woodward, that he certainly thought if the opinion of the witness were asked, it should be confined to what had occurred, and not to what might, by possibility, occur; and with regard to

the last question of Mr. Dolan, the witness was, of course ignorant —what could he know of the wishes of Government ?

Mr. ROWAN here protested against Mr. Dolan writing questions for Mr. O'Donovan to ask the witness.

Mr. TOWNSEND observed, that Mr. Dolan was there for the purpose of advising Mr. O'Donovan.

Examination resumed—Witness could form no opinion as to whether the Government wished for conversions or not ; witness's chief thought has been to make them reform their conduct, and not change their Religion ; as a private individual, witness has frequently expressed his opinion on the Catholic Religion, and will always do so in private society, but as a public officer, has not done so ; witness has never done it to a Catholic prisoner under his charge, but if witness were instructing a Protestant, he would express his opinion.

By Mr. Townsend—If witness were reading the Bible to a Protestant, and came to a controversial passage, he might express his opinion on it, although he does not now recollect having ever done so ; witness would not read to a Roman Catholic any controversial passage ; witness has even refused Thomas Smyth "Baxter's Paraphrase on the New Testament," it being a controversial book ; and witness desired him to read the version authorised by his Church ; witness has often given lectures here, but does not recollect having ever given any controversial explanation even to a Protestant.— Witness here angrily said, "I have often been told by Catholics, that if I were as pure a Protestant as ever lived, I could never go to Heaven."

(It is quite impossible to describe the ferocious irritation of the witness at this moment—his answers too, were given in a tone of extreme insolence and audacity.)

If witness were giving instructions, or holding a Religious communication with a Protestant who had been a Catholic, he would not consider that, but he would treat him as if he had always been a Protestant ; sure his own wife was a Spaniard and a Catholic, and had become a Protestant ; dares say that, since 1825, there have been requests in the reports from prisoners to see Mr. O'Donovan. Two men who had passed the number of changes allowed, reported to the governor for him (Mr. O'Donovan) ; there might be many occasions where requests were made to see Mr. O'Donovan, or to see Mr. Higgin, but no further notice was taken of them, for they had both access to the House if they pleased. Recollects no particular instance since June, 1825, of a prisoner reporting through him for Mr. O'Donovan.

Mr. DOLAN here protested against the interference of Mr. Rowan with the witness ; he was continually making observations that had all the effect of suggesting to the witness.

Mr. TOWNSEND declared that he thought Mr. Rowan had all along interfered too much in the cross-examination of the witness.

Mr. ROWAN indignantly said, he would not permit Mr. Dolan

again to open his lips there. If he (Mr. D.) were disposed to restrict him he, (Mr. Rowan) would withdraw his courtesy. Let him suggest to Mr. O'Donovan, and if Mr. O'Donovan did not understand the question, let him be at the loss.

Examination resumed—Remembers the case of Elliott; has explained the particulars of the interruption then given to Mr. O'Donovan; has looked into the books relative to Carey's case, since this Inquiry began; believes he has looked into more than one book; Carey was thirteen days on bread and water: knows that fact from looking at books kept by himself: has obtained the fact from the Issue Book, and the daily entries in witness's hand-writing, in that book. Heard Mr. Green and Carey examined here; has seen Carey in the stocks; witness does not remember that Mr. Green brought him any message from Carey at the time; he could not well, for Carey was only one night in the stocks; and witness believes Mr. Green was officer of the second watch, at twelve o'clock; it is not likely that he could bring a message to him after twelve o'clock; Carey had no handcuffs on while he was in the stocks, nor was there ever, to witness's knowledge, a man handcuffed while he was in stocks; there were no restraints upon his hands that night; Carey got his bedding the next day.

Rev. Mr. O'Donovan—Is there a book to show how long Walsh was in the cage?

Witness—I do not think it is any thing to you whether there is or not.

By the Court—The book is that in which the reports of the night are copied; witness cannot say whether the original reports are in existence; cannot tell whether that book, which is kept by the hall-porter, will tell what day he was put into the cage; cannot tell whether there is any book that will tell when Walsh was removed.

By Mr. Townsend—Is sure Walsh was not there more than five nights from circumstances; when witness took him there, he observed to the governor that the place was rather damp, and the governor said he would write immediately to Mr. Todd, to see him; that occurred in the evening; the day following the governor wrote to Mr. Todd; either that day, or the next, Mr. Todd came; in consequence of the person who had the key (the inside porter) being out of the way, Mr. Todd did not see him (Carey); thinks, but is not certain, that he called the day after; after Mr. Todd saw him he was removed; witness put him in, and took him out, and swears that he was not there more than five nights; has not got the memorandum, which he received from Mr. Rowan directing him to remove Carey; has it not now in his possession; always returns Mr. Rowan his orders when they are executed. Witness has frequently seen Walsh after his confinement, and he did not appear to have suffered by it; he was able to shout as well as ever, for witness had afterwards a great deal of trouble with him; thinks Carey was in the stocks in November; is certain it was in November.

Mr. ROWAN, previously to the Court separating, adverted to the observation made this morning by Major Palmer, with regard to the solitary cells. Mr. Rowan said he had no other, and referred to the evidence of Dr. Orpen to show, that the opinion of them given by Dr. Orpen, did not warrant the observation of Major Palmer.

Major PALMER said, in making the observation he was influenced by the kindest feeling towards Mr. Rowan. At the same time he felt himself bound to make the observation, last if there were any thing wrong in putting the prisoner into the cell, after Dr. Orpen had expressed a disapproval of it, it might be supposed that he (Major Palmer) had concurred in Mr. Rowan's act. He (Major Palmer) again declared his kindness of intention in making the remark, and expressed his conviction that Mr. Rowan would do nothing that was incorrect.

Mr. ROWAN said, that the misfortune was, that if the observation went to the public, they would form opinions very unfavourable to him on account of it.

Major PALMER said, that no misapprehension could arise, and if it did arise, he would be most happy to give the explanation which he now gave.

After a great deal of conversation of this tendency, the COURT adjourned.

Defence—Thirteenth Day—October 10.

On Mr. Townsend and Major Woodward taking their seats—

Mr. DOLAN adverted to the delay of Mr. Rowan in not giving in his statement which he had read at the commencement of his defence, as he had promised, if that statement were to be inserted on the minutes, it was necessary that it should be at once given in.

Mr. ROWAN said, he had not yet time to compare the copy or to correct any errors that might be in it.

Mr. TOWNSEND said, that one thing was understood, and that was, that Mr. Rowan's statement should not be inserted, unless Mr. Rowan gave an assurance that it was the one he had read; and in point of fact, Mr. Rowan's statement, or that part of it which he would give in, was no more than general observations upon prison management. Mr. T. read the letter of the writer mentioned by him (Mr. T.) yesterday, who stated in it, that he had been requested by Mr. Rowan, to put an iron helmet on Mary Ann Williamson, who was in hospital.

Mr. ROWAN stated, that the utter falsehood of the charge was manifest by a reference to the evidence of Mr. Manning—Manning had sworn that he (Mr. Rowan) had not seen the helmet for two years after he came here, and Groves, as would appear by reference to the orderly book, was dismissed for drunkenness, in August 1823, about three months after he (Mr. R.) came here.

Mr. TOWNSEND said, that if Mr. Rowan could show that Groves was dismissed at the time, he would at once reject his application. The Order Book was produced to Mr. Townsend, who said that the entry according to Mr. Rowan's statement appeared on it.

Mr. DOLAN begged to remind the Court, that he mentioned, on Mr. Townsend speaking yesterday of the letter from the individual in question, that he knew nothing at all about him.

The Court and Mr. Rowan expressed their recollection of Mr. Dolan's declaration.

Cross-examination of James Algeo resumed by Mr. Dolan, through Mr. O'Donovan—Has no more recollection of the helmet being on Glover than he mentioned yesterday. Here a paper was offered to witness, which he proved to be signed by the initials of Mr. Rowan, it was in the following form.

" Bridget Fitzpatrick, } " Mr. O'Donovan,
" Mrs. Roberts' division. } " 16th April, 1825."

Mr. O'DONOVAN said, that was the form of the report presented to him when a prisoner required his attendance.

Mr. O'DONOVAN handed the following report or order, also to the witness.

" Mary Ryan is very unwell, and wishes to see Mr. O'Donovan immediately.

" 27th August, 1823."

Mr. ROWAN observed, that he did not think the date was his hand-writing.

Mr. DOLAN said, that the object was to show the existence of a practice now discontinued.

Mr. TOWNSEND said, that it was admitted by Mr. Rowan, that since his return from England, a practice that was allowed by courtesy was discontinued.

Mr. ROWAN persisted in saying the date was not in his writing.

Miss FREEMAN (to whom the paper was handed) said, she thought the hand-writing was Mr. Rowan's.

Mr. ROWAN said, he was certain the figures were not his.

Mr. DOLAN—Will you, if you please sir, interrogate the officers to the fact? I could swear myself that the figures are in Mr. Rowan's writing. Mr. Rowan's denial of its being his hand-writing, implies that it has been fabricated by us.

Mr. TOWNSEND said, he would ask Mr. Crofton, the governor's clerk—Mr. Crofton was called.

Mr. CROFTON deposed, that he believed the date to be in the hand-writing of Mr. Rowan.

Major WOODWARD—I certainly think it is Mr. Rowan's hand-writing.

Miss FREEMAN—My belief is, that the date is in the hand-writing of Mr. Rowan.

Mr. ROWAN—I think the woman was transported before that time.

Mr. DOLAN—You see, sir, Mr. Rowan is now discrediting the evidence of his own witness and officer.

Mr. TOWNSEND—It is not discrediting them to differ from them in an opinion, but I think you may consider that the document has been proved.

Cross-examination resumed.—Thinks the helmet was first put on Coghlan, it must have been put on Coghlan first, for Walsh broke it, and it could not have been on any one afterwards, is certain that he has never seen more than one helmet; does not remember having heard of more than one till he heard it here; there might have been more than one without witness knowing it, as the thing was kept secret so long; witness saw the helmet put on, and it was fastened behind, as well as he recollects, with a bit of stick put through the staple that was made for the padlock; was present at one conversation before putting on the helmet, when Mr. Manning produced the helmet to Mr. Rowan; witness never saw or heard of the helmet before, and said it would be a very good thing to put it on those people that were noisy and making a noise; witness does not remember the time when Mr. Manning brought the helmet, nor can he recollect was it in this office or his own office that he produced the helmet; thinks it was in his own office; thinks Manning produced the helmet before the tumult occurred; witness thinks it was produced on some other occasion; witness thinks the governor replied to Mr. Manning, that it might be a very good

thing for the purpose, but that if he were to use it, he might be held up to the world as a monster, as it would be called an instrument of torture; this was before the handles of doors and keys were used; witness is certain that this occurred after Mr. Groves was dismissed, but cannot recollect even the year.

Mr. DOLAN—You see sir, the only thing the witness recollects accurately, are Mr. Rowan's observations.

Mr. ROWAN—Now, is it right, I ask you, Mr. Dolan, to make these observations? I do not wish to reply to such insinuations with severity, but I must declare they are cruel and unjust.

Witness—If I thought there would ever be this Investigation, I would remember not only the years, but the days and the hours.

Mr. TOWNSEND—I really do not think it surprising that the witness does not recollect the precise time.

Cross-examination resumed—Has stated all the conversations, and i twas the particular expressions which Mr. Rowan used, made him remark that.

Mr. DOLAN—How does it come, that, after all this humane conversation, Mr. Rowan ordered you to put the helmet on?

Witness—Of that Mr. Rowan is the best judge—(looking towards Mr. O'Donovan) it has always been my practice to obey orders without questioning their propriety.

Mr. TOWNSEND—I think sir, that is *your* duty, and the duty of every officer under you; I do not mean, however, to apply the rule to an officer in the situation of chaplain; this witness, Mr. Dolan, has stated, he has put on the helmet; the reason of putting it on, will best be learned in my opinion, from Mr. Rowan, himself, on his examination.

Examination resumed—Remembers the day Barry (the witness who was brought here from the hulk to be examined) arrived in the prison; did not ask him what his Religion was; nor did he ever ask him or any other person what his Religion was; it is the practice of the witness to take every thing; clothing, prayer books, every thing, from the prisoner, without considering his Religion; the prisoner is allowed to keep nothing.

Mr. ROWAN—I suppose this business will never end—this is the 35th day since this Investigation begun.

Mr. DOLAN—It should be but the 30th, for you consumed five days in doing nothing available. You merely made a statement, without proving a particle of it.

Mr. ROWAN—You may think so, Mr. Dolan.

Examination resumed—Witness would take a prayer book from a Catholic, but at the end of his probation week, if he declared to be a Catholic, he would get a prayer book approved of by Mr. O'Donovan. On the second probation, witness thinks it is the duty of the chaplain whom the prisoner is about to leave, to go to him; and confer with him; when the Inspectors General go through the prison, the governor, of course, accompanies them; witness has never known them to go without him, because witness

never knew a commanding officer leave his regiment when a commanding officer came to inspect it—the regiment would be in a curious way if the officers were to march off and leave them to be inspected. Witness never sees the prisoners in the first probation week; witness, of course, sees them the day they come in, and gives them up to their officers, explaining the rule about the chaplains; If the prisoners be Roman Catholics wanting to go to Church, he never sees them the second week; if they be Protestants wishing to go to Mass witness takes every opportunity of seeing them and using every argument to induce them not; witness uses arguments drawn from his Religion, but tells them that their change will make no difference of treatment for them here; witness would think himself unworthy of the name of a Protestant, but a hypocrite, if he did not do so.

Mr. DOLAN—(to the witness)—Are you not a methodist?

Witness—Tell me what it is, and I will answer you.*

Mr. DOLAN—Really, sir, this is very improper.

Mr. TOWNSEND—Answer, sir, do you know what a methodist is?

Mr. ALGEO—Let him tell me.

Mr. TOWNSEND—Are you one of the body of methodists; do you know what a methodist is? An interrogator is not to be questioned in this manner.

Witness—I have examined every Religion, and if I did not, I would be a Catholic, probably.

Mr. TOWNSEND—Are you a methodist?

Witness—I am, sir.

Major WOODWARD—Are you a dissenter?

Witness—I am a methodist, but am in communion with the Church of England; I was a Presbyterian, and prejudiced against the Established Church, until I joined the methodists; and here, sir, (handing a paper angrily) here, sir, is a paper containing a statement of the rules of the methodists, and if those (looking at Mr. O'Donovan) who know nothing of the matter, read it, they may learn something that will remove their ignorance.

Mr. ROWAN (who had repeatedly got up during this dialogue) was about to protest against any examination on those subjects.

Mr. TOWNSEND warmly told Mr. Rowan that he ought not interfere; the question was answered.

Mr. ROWAN said, he wanted to protest against such a question being answered again.

Mr. TOWNSEND replied, that the protest should not be made prospectively.

Mr. DOLAN (to witness)—Did you ever say that a methodist

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* It may be right to remind the reader, that, although in this, as well as in other examinations of witnesses, Mr. Dolan appears to be the interrogator, the questions were merely suggested by him to Mr. O'Donovan.

preacher would do more good here, than either a Protestant or Catholic chaplain.

Mr. ROWAN (interrupting)—Is it right that a question such as that should be put, and which if Mr. Higgin were a captious man, might make him feel very sore.

Mr. TOWNSEND—I think the question ought to be answered if pressed.

Mr. DOLAN—Well, please to answer the question.

Witness (after a pause)—If I said it, I said it in a way that I think it ought not to be brought here.

After some conversation between Mr. Dolan, Mr. Rowan, and the Court,

Mr. DOLAN said, that he asked the question in reference to witness's veracity.

Mr. ROWAN protested against Mr. Dolan using such language, or at all speaking here.

Mr. TOWNSEND—Mr. Rowan I am sure does not understand the meaning of Mr. Dolan's observation, and I really do not think Mr. Dolan has exceeded the latitude our courtesy has allowed him, irrelevant questions may be put on a cross-examination.

Rev. Mr. O'DONOVAN—Did you ever say any thing like what was last asked you.

Witness—If I kept a diary I might probably recollect if I did—why, these gentlemen, I suppose, will bring me to account for what I might say in my own family.

Rev. Mr. O'DONONAN—When a Catholic prisoner wishes to go to Church, how is the fact communicated to me ?

Witness—I really do not know ; I think it is your business to visit your flock.

Mr. TOWNSEND—If a Protestant prisoner wish to go to Mass, is that fact communicated to Mr. Higgin.

Witness—I really do not know, probably the governor may inform him of it. I think you have it in evidence, that Mr. Rowan has communicated by letter with Mr. O'Donovan.

Cross-examination resumed—Changes of Religion have occurred since this Investigation. There have been two instances—two Protestants, who had always been Protestants, went to Mass, but came back again.

Mr. DOLAN—What are their names.

Mr. ROWAN requested that their names should not be given; there have been inducements offered here since this Investigation to make the people change their Religion, so much so, that two Protestants, hoping to be pardoned by the influence of the Catholic chaplain, have gone to the Church of Rome. They said they went with disgust.

Mr. TOWNSEND—Mr. Rowan, you can prove these facts if you please, the question is a fair one.

Mr. ROWAN—I fear from the use which Mr. O'Donovan can

make of answers here, if he pleases, and I am sure he does please it, I will be obliged to take steps with regard to Mr. O'Donovan, very distressing to my feelings.

Mr. TOWNSEND—That is for Mr. O'Donovan's consideration, the witness is to answer the question here.

Witness—John Carr and John Barry are the names of these persons; there are two others, who were always Protestants, who have gone to Mass since this Investigation began, and continue to go.

Mr DOLAN—(to Mr. Townsend) Compare this testimony with Mr. Higgin's return, and see there what Mr. Higgin says of Barry, you will easily ascertain whether, as witness says, Barry was always a Protestant.

Witness—One of those had a desire to return to Church, but from the turbulence of that division where they are all Catholics, he had been rightened from going, I never saw any division in this house in such a state before, as this division is at present.

Witness—Mr. Coombe, and Mr. Wood the schoolmaster are in the same room with him.

Mr. TOWNSEND—What is the name of this prisoner?

Witness—William Atkins is the prisoner who wished to return, but was frightened.

Mr. TOWNSEND—Mr. Rowan send for that prisoner.

Mr. ROWAN—(to a warder)—Mr. Coombe, go for Atkins.

Mr. O'DONOVAN—I beg, sir, that I may be allowed to go with the officer, to prevent his communicating with the prisoner. I should wish that some other person went with him.

Mr. TOWNSEND—If Mr. Higgin were here, I would have no objection that you should go with him.

After some conversation, it was decided that Major Woodward should go for the witness. Major Woodward accordingly went with the officer.

Mr. DOLAN—How many altogether have made the change?

Witness—There are six altogether, four of them were always Protestants, and became Catholics, and have since remained so.

Mr. DOLAN—What are their names?

Witness—The names of the four are, John Shaughnessy, Patrick Barry, William Johnson, and William Atkins.

Mr. DOLAN—Do you know of Magrath having changed since?

Witness—Yes, he has changed also.

William Atkins (the convict) was now brought in and sworn, (he appeared greatly frightened.)

Examined by Mr. Townsend—Has been here more than a year; has been here for eighteen months.

Mr. ROWAN—I protest, sir, against this.

Mr. TOWNSEND—We can't help that.

Witness declared himself a Protestant originally when he ca here; is not now one; was a Roman Catholic before he c

here ; his father was a Protestant, his mother a Roman Catholic; his father lived in the County Cavan when witness was a child; he went with his mother ; witness went to Church before he came here ; he cannot say did he change half a year before he came here; went to Church before he was tried ; it is more than two months since witness became a Catholic ; believes he is going to Chapel nine or ten weeks ; witness was sent here as a Protestant; it was going on four months before witness was asked here was he a Protestant, during which time he was going to Church ; was here better than three weeks before he went to Church ; was told that he could not go until he got clothes ; the doctor said, too, that he had some complaint in his hands; witness at length was let go to Church in his own clothes ; he was hindered for some time, but was let go; wishes to be a Roman Catholic ; likes to be a Roman Catholic; wishes to go to Mass now ; witness has expressed a wish to see the governor, on the head of going to Church again, for his officer was teazing him, and he cannot bear punishment ; he would be as well pleased to go, until he would see some change here ; does not like to answer whether he is punished for going to Mass ; he deserves all the punisment he gets, but he thinks the officer is more severe on him than he was when he was going to Church ; wished to see the governor to get leave to write to Mr. Hamilton, the Rev. Mr. Hamilton, who is Inspector of Trim Gaol, where he was tried; was going to Church at that time when he was in Trim.

By Major Woodward—Has lived in the County Meath ; his father is dead.

Mr. Rowan asked this prisoner no question.

The witness withdrew.

Mr. ROWAN here handed in the following protest against this proceeding :—

PROTEST.

" William Atkins, the individual being now about to be examin-
" ed, in consequence of some observations which have fallen from
" the witness, Mr. Algeo, I consider it my duty to offer my respect-
" ful but solemn protest against the mode of proceeding which
" the Commissioners have followed on this occasion respecting this
" man. It has been, for many obvious reasons, my anxious wish
" and object to avoid any line of conduct tending to make this
" Investigation recriminatory as concerns the Rev. Mr. O'Dono-
" van ; but the course which the Commissioners now take, leaves
" me (as I conceive in justice to myself) no alternative, but either
" to institute charges against Mr. O'Donovan, or to prejudice my
" case most essentially by not asking any questions from Atkins.
" I think, for many reasons, to follow the last course, and therefore
" consider it incumbent on me to present this protest against the
" examination of William Atkins, as to his Religion, or any charges
" he may have made, or prospect, or wish to make respecting it.

" H. W. ROWAN.

" October 10th, 1826."

Mr. O'Donovan (in allusion to the protest) Mr. Townsend, so far as I am concerned, I challenge any recrimination on the part of Mr. Rowan.

Mr. Townsend—Really, Mr. O'Donovan, I have no authority to ask any question regarding your conduct.

Mr. Dolan—It is right, however, sir, that Mr. O'Donovan should show how he defied the threat or insinuation made.

The cross-examination closed.

Mr. Rowan—Why, in your opinion, have the prisoners changed their Religion?

Witness—I cannot say, unless from the reports of the officers, why the prisoners have changed their Religion.

Mr. Dolan objected to the question.

Mr. Townsend reminded Mr. Rowan that no evidence would be received at law while better evidence of the same fact could be had. Let him examine the officers who made the reports.

Resumed—Has heard a prisoner say, that he heard from another prisoner, that he was promised, by a message from Mr. O'Donovan, if he would go to Mass that he would be sent to the depot at Cork, that he would be pardoned there, after which he would be put to a trade.

Mr. Townsend—What evidence is this — a prisoner told a prisoner, who told Mr. Algeo, that a messenger from Mr. O'Donovan told him.

Mr. Dolan—Oh! sir, the object of this examination is apparent.

Witness—This prisoner has not changed.

Mr. Dolan—Mention his name.

Mr. Rowan—I trust the Commissioners, having such a circumstance before them, will not feel themselves called upon to ask the name of this person; Mr. Townsend had said that he would not be bound by the rules of evidence.

Mr. Townsend (to Mr. Rowan) I have several times denied that assertion of yours, that I would not be bound by the rules of proceeding in Courts of Law; I did not say I would not consider the rules of evidence.

Mr. Rowan—Well, sir, I will say no more on the subject.

Mr. Dolan—I wish to know the name of the prisoner.

Mr. Townsend—I have my doubt of your right to know the name of that prisoner.

Mr. Dolan—Either let us have the name of the prisoner, or expunge every mention of the circumstance.

Mr. Townsend—I cannot insist upon the name of the prisoner being disclosed.

Mr. Rowan—Mr. Algeo, you have stated that one division is the most insubordinate in the house; does not Mr. O'Donovan spend most of his time there?

Witness—Mr. O'Donovan, since this investigation began, has spent more time with them than he had for twelve months before.

Mr. ROWAN—Are they more or less insubordinate when he leaves them?

Witness—Oh! more insubordinate. Before the Investigation, perhaps, for twelve months since, the hall porter has told me that Mr. O'Donovan has frequently come here after lock up hour and signed the book as if he had done duty that day.

Mr. TOWNSEND—That is no evidence, you must bring the hall-porter to prove it.

Mr. DOLAN—The witness knows, sir, as well as you or I do, that it is not evidence, but he very cunningly drops an observation that leads to an improper inference, although it is not evidence. Mr. Dolan pressed for the name of the prisoner that told him he had heard from another prisoner, that Mr. O'Donovan sent him a message.

Witness—I would rather not tell it; it would produce a great deal of contradiction in the house by the opposite party.

Mr. TOWNSEND—I do not think the question could be pressed.

Mr. DOLAN—Then sir, have we not a right to have the entire matter struck out of the minutes?

Mr. TOWNSEND—No, I think not; in the way I have taken it, Mr. O'Donovan's name does not appear; I mention the fact excluding that part which says the message came from O'Donovan.

Mr. GLASCOTT—Mr. Dolan do you wish that I should strike out the passage from my notes?

Mr. DOLAN—I do.

Mr. GLASCOTT—Well, then, I will not.

(In compliance with the intimation given by Mr. Townsend, and also in consequence of Mr. Townsend saying, that the evidence given by the witness on the subject, did not affect Mr. O'Donovan, Mr. Dolan did not press for an answer to the question, although he stated, he would much rather it was answered.)

Mr. TOWNSEND said, in reference to the production of the convict witness, that if that man had said he was anxious to become a Protestant again, he would have recommended to Mr. Rowan to remove him from his ward, although it was not impossible, that Mr. Rowan might show reasons to convince him, that such a step would not be advisable.

Mr. ROWAN—Ah, sir, you do not know what that would lead to.

The cross-examination being closed, the witness withdrew.

Miss Jane Taggart sworn and examined by Mr. Townsend.

Is female warder of the first division of the 2d class; is a member of the Established Church, and has been here a year and a half; has known no means used by any of the officers to induce the prisoners to change their Religion; has never known means of the kind to be used by any of the wards-women; was never warder of the third class; knows nothing of the probationary week,

unless from the report of the officers, and her own observation; in witness's experience, prisoners have expressed a wish to change their Religion; the course in that case is for the prisoners to report to the governor in the morning report, to see the Protestant or Catholic Chaplain, whichever may be required; witness speaks of her own division, and if the prisoner desiring to change were a Protestant, about to go to the Catholic Religion, witness would endeavour by every argument in her power, to prevent her; the governor generally sees her (the prisoner) before the change; witness has been present; the Chaplain whom the prisoner is going to leave, is allowed free access to her, but the Chaplain to whom the prisoner is going, is not allowed to see her during the probation week; the prisoner is not allowed to go to either places of worship; at the end of the week it is entirely optional with the prisoner to go where she pleases; witness never knew in any one instance, the course to be departed from; Bridget Brenan is not at present in witness's division; she was in it; she was reduced from that division; she was afterwards sent to the second division of the second class. Recollects Donnelly, on one occasion, objecting to witness singing a hymn; it was on a Sunday, and the convicts of both divisions had sat down to dinner at separate tables, in the same work-room; Donnelly was in witness's division then; witness conceives the difference of divisions to be for the sake of classification. When the blessing had been asked, they sat down to dinner, and witness walked up to the end of the room, and began to sing the 47th psalm; observed that some person got up very quickly from the lower end of her (witness's) table, and went out of the room; witness could not distinguish who it was, and went out to see; found it was Sally Donnelly whom she perceived sitting on the steps of the corridor; witness asked her why she left the dinner-table? Donnelly said she had dined—Witness said it was not possible, as she had not been more than two or three minutes at the table, but whether she had or had not dined, she could not leave the table until the others had dined, and until thanks had been returned, as it was the governor's order. The woman replied, that she could not remain to hear the hymn, as it was against Mr. O'Donovan's order. Witness desired that she should return to her table, determining in her mind, that what had offended her should not continue; she (Donnelly) did return to the table; no other Catholic present objected to it; there were Catholics present; witness did not proceed further in the psalm. Never heard the governor use any such expression as, "After this examination is over, I will treat the persons here with severity." Some of the prisoners began to smile at Donnelly for having gone out; witness desired them to cease, that it was no subject to laugh at; witness said, she was grieved to find a person so blinded as not to be able to use her own judgment, and expressed her hope that she would be as careful to avoid listening to, or singing a profane song, as she was to avoid hearing a psalm, a hymn sung to the praise of God. Witness never saw the

governor make a shadow of difference between Protestants and Catholics; if there were any difference made, or leniency shown, it was in favour of the Roman Catholics; witness has heard the Protestant prisoners themselves say so; in point of justice, the governor would be the same to both; witness cannot exactly account for the impression on her mind, that the governor, himself a Protestant, leaned more to Roman Catholics, but many things concurred to make the impression on her mind.

Mr. ROWAN here handed a paper, purporting to be a report, by witness, of the transaction in the Chapel, in which Mr. O'Donovan was concerned.

A conversation or charge, addressed to the male and female convicts of the Richmond General Penitentiary, by Mr. O'Donovan, the Roman Catholic Chaplain of the aforesaid Institution, on Sunday morning, the 4th December, 1825, in the Roman Catholic Chapel of said Institution:—

"Attend," said he, "to what I am going to say to you, for I "wish you to remember what I do say. I stand here, at this Altar, "as the Minister of the living God, and last week I made a pro- "mise to some of the female prisoners, now present, to meet them "here, in the Chapel, to hear their confessions, and they were not "brought to me; but I don't care what rules and regulations are "made, I'll have justice. I have a character to support, and how do "I know the moment the wolf in sheep's clothing may come upon "me, for there is nothing but lies and calumnies going in this "place. It has already been the custom, in this Church, that "every one, at least twice in the year, at Christmas and Easter, "should confess their sins to the Minister of the living God, that "he might prepare them for receiving the Sacrament, but as I "stand here the Minister of the living God, I will have justice—I'll "go far and near to seek for it, but I will have justice, for I will "support the Religion I profess; it was the Religion of my fore- "fathers, it is your Religion, and I will support it."

These are the words used by Mr. O'Donovan, without the shadow of an alteration.

JANE TAGGART.

The paper just read is witness's handwriting; witness took the transaction down on the instant she returned to her own room, and is certain these were the very words used by Mr. O'Donovan; is quite certain; her recollection of them is so fresh, that she could repeat them now; remembers when Sally Donnelly objected to the singing, going with the matron, Miss Freeman, and the governor, to the witness's room, to inquire into the circumstances; Sally Donnelly, on that occasion, was perfectly satisfied with the explanation which witness made, in the presence of the governor and Miss Freeman, and said, she (Donnelly) was sorry she had spoke of it at all; witness said that she (witness) was sorry she had done anything to hurt her (Donnelly's) feelings.

Mr. ROWAN—The truth is, Miss Taggart apologised to Donnelly with the greatest possible kindness.

Witness—This apology was the impulse of my own feelings, and was not suggested to me by any person ; if in that, or any other instance, I hurt the feelings of a prisoner, it was in opposition to the well-known orders of the governor.

Mr. ROWAN—Indeed, Miss Taggart, I did not ask that, it is in your report—the same liberal acknowledgment appears in your report.

(Here a paper is handed to witness.)

Witness—This is the handwriting of Mrs. Duigan.

Mr. DOLAN—Mrs. Duigan can be had.

Mr. ROWAN—It has been ruled here that the writing can be proved by another.

Mr. TOWNSEND—If the paper be a proof of any fact, to be taken as evidence we would prefer Mrs. Duigan being produced here.

Mr. DOLAN—You will please, Miss Taggart, not to say anything about Mrs. Duigan.

Witness—Why not, sir ! Am I not to be allowed to tell what was her opinion ?

Examination resumed—It was the general opinion of the officers that if the governor were so lenient to refractory prisoners, the officers could not be safe. With respect to the difference in the work-room, the rule is, by the governor's order, that when the Protestant prisoners are receiving religious instruction, the Catholics are sent to their ward ; that is, they are not sent, but they may go if they please ; has known several Catholics attend, and Mr. O'Donovan has desired they should not attend.

Mr. TOWNSEND—Can you say whether Mr. Higgin would desire a Protestant not to attend if Mr. O'Donovan were giving instructions.

Witness—I cannot say I have ever heard Mr. O'Donovan giving any instructions.

Examination resumed—Witness went down to her division to lock-up for prayer ; the range of the other (the second) is farther removed from the work-room ; the warder of the second division thought she might let the Catholics remain in the corridor during prayer. On witness coming from her range, she passed the women of the second division that were standing in the corridor ; when witness went into the work-room, Mrs. Noble was speaking to one of her women, a Protestant (Ann Morrison) ; witness perceived by Mrs. Noble's manner, that something had happened, and she wanted to know what had occurred—Mrs. Noble said, that Ann Morrison had got up to leave the room when the women went to prayer. Witness asked Ann Morrison to what she objected ; witness asked was it to the reading of the Scriptures, or the prayer that she objected ? Morrison replied, that she did not object to either, or to anything she had heard in that room, but that her mind would lead her to go

to Chapel. Witness entreated of her to consider seriously what she was doing; that it was a very awful thing of her to turn her back upon the reading of the Word of God. Morrison said she did not intend to do so. Witness said, the very first act, if she became a Roman Catholic, would be shutting up part of the Word of God from her, and what she will be allowed to read, would be a perverted version; and that the perverted version would tell her that she should do penance and—

Mr. TOWNSEND—I do not think you need tell the particulars. You have admitted that in these cases you use all persuasion.

Witness—Yes, sir, I would consider it my duty to do so.

Major WOODWARD—That is to Protestants?

Witness—Yes, sir, to Protestants. Ann Morrison was a Protestant.

Examination resumed—Witness and Mrs. Noble then went on to read the Scriptures, and Mrs. Noble prayed. Witness, before the Catholics entered, said, that the Protestants ought to evince the correctness of their Religion by living in peace and harmony with each other. The wards are immediately opened when prayers are over; the Catholics are not sent to the wards as punishment, but to keep them from hearing what was unpleasant to their feelings. When witness went down to the lower corridor for breakfast, she had three women of her own division, and usually had three women of Mrs. Noble's division; these latter did not come, and witness felt it her duty to go back and see what prevented them; witness returned to the work-room; she found all confusion; Miss Freeman and Mr. Higgin were there; witness did not see what had occurred. One of witness's women told her when she went back, that the six women (Catholics) had rushed into the work-room, and that one of them had stamped violently, and said she would have her (Miss Taggart's) life.

(At this period Mr. Townsend addressed Dr. Orpen, who was in the room, in reference to the conversation of yesterday, regarding the solitary cells.)

Mr. TOWNSEND—Dr. Orpen, do you know is there danger in the prisoners being put into the solitary cells, or that they are in a state unsafe for the prisoners' health?

Dr. ORPEN—I think they cannot suffer for being there a few days; I see them; I saw them yesterday; they are not sufficiently ventilated, however, and I think new ones ought to be built.

Mr. ROWAN—(through the Court)—Have you heard the prisoners tell the cause of their punishments?

Dr. ORPEN—Yes, I generally hear it from themselves—I have never heard them complain of their punishments.

Mr. DOLAN—Would you tell, if they had complained?

Doctor ORPEN—Certainly; I am sworn to tell the whole truth.

Mr. DOLAN—I ask you, because you declined, on your cross-examination, to tell a matter which you alleged to have heard, in a professional capacity.

Doctor ORPEN—Oh! I was bound, by a previous oath of secrecy in that case.

Mr. DOLAN—I really see no difference. I suppose the information you derived, while attending the convicts, is had under the same obligation; not that I think there is any obligation of secrecy in either of these cases.

Mr. ROWAN—Have you ever, on any occasion, heard Mr. O'Donovan giving any sort of moral, religious, or literary instruction?

Witness—Never.

The COURT adjourned.

Defence—Fourteenth Day—October 11.

The COURT met at the usual hour.

Mr. TOWNSEND said, that doubts having arisen as to what he had stated concerning the rules of evidence, he wished to repeat it now.—"This Commission is more analogous to the forms of a "Committee of the House of Commons, than to those of an ordi- "nary Court. We must examine a number of convicted felons, "because they are the plaintiffs, and their complaints ought to be "heard; we must also examine a great number of the officers, "some of whom are amongst the accused; this is prayed by the "Memorial; and it appears that we cannot, without doing so, give "a satisfactory answer as to the matters referred to us; so far, our "proceedings are peculiar, and the evidence we shall receive, dif- "fers from what is generally admissible, but in all other respects, "we are bound to follow the ordinary rules of evidence, which are "the same in law and equity, in civil and in criminal proceedings."

Cross-examination of Miss Taggart, resumed by Mr. Dolan through Rev. Mr. O'Donovan—"Are you a methodist, madam?

Mr. ALGEO!!!—Don't answer that.

Mr. DOLAN—What?

Mr. ALGEO—I desire Miss Taggart not to answer until Mr. Rowan comes in.

Witness—I object to answer—I will only answer as I did yesterday.

Mr. TOWNSEND—(to Mr. Rowan who had just entered)—Mr. O'Donovan wishes that Miss Taggart should state is she a methodist, and she refuses to do so—have you any objection?

Mr. ROWAN—Not at all, sir.

Mr. TOWNSEND—Well, Miss Taggart, you will please to answer the question—do you know what the meaning of the word methodist is?

Witness—The term is sometimes used as of reproach, and at other times as a distinction of Religion.

Mr. DOLAN—In this instance, it is not used in an offensive sense, of that you may be assured.

Witness—I do not wish to answer the question.

Mr. TOWNSEND—Madam, you are sworn not only to tell the truth, but the whole truth; you are bound to answer the question. Are you in connexion with the methodists?

Witness—I do not think he (Mr. O'Donovan) has any right to ask me; what I will *tell* shall be the truth; I will give no answer but what I gave yesterday.

Major WOODWARD—I am no methodist myself, but I know it is not any disgrace to belong to the body; those who belong to it are enrolled—are you enrolled?

Witness—I won't answer the question at all. He (Mr. O'Donovan) has no right to ask me.

Mr. TOWNSEND—You are here, Madam, sworn to tell the whole truth, and you have no right to inquire who it is that asks you the question.

Mr. ROWAN—I am not interfering with the answers of the witness, but I beg so say that it is not right to interrogate in this manner; there is no relevancy in such questions.

Mr. DOLAN—Mr. Rowan, I beg you will leave the witness in our hands; your interruptions are most improper, they are irrelevant.

Mr. ROWAN—Sir, I have a right to interfere when improper questions are put to my witness.

Mr. TOWNSEND—I think the question is both proper and relevant. There are charges made that a system of proselytism is carried on here; it appears a matter of opinion that one description of persons is more disposed than any other to make proselytes; I think it is right to ascertain if the witness be one of that description; the cross-examiner has a right to ask the question. I am quite clear that it is a question fit to be answered, and one that a Court of Justice would compel the witness to answer.

Witness—I will give no answer.

Mr. TOWNSEND—I do not wish to say anything offensive to a lady, and I will, therefore, not say what course a Court of Justice would pursue in this case.

Mr. DOLAN—I am inclined to think the courage of the witness would be put to the test; but it is no matter, the refusal of the witness answers our purpose fully.

Cross-examination resumed—Mr. DOLAN—Have you had, since yesterday, any conversation with Mr. Rowan or Mr. Algeo?

Witness—No.

Mr. DOLAN—Have you had any conversation with any person relating to the questions you were to be asked here to-day?

Witness—I had a conversation with regard to one question.

Mr. DOLAN—What was that?

Witness—I will not tell—I suppose we will not be allowed to speak at all!

Mr. DOLAN—Who was the person?

Witness—I will not tell.

Mr. DOLAN—(to Mr. Townsend)—You will please to note that on your minutes.

Mr. TOWNSEND—Indeed I will.

Mr. DOLAN—What was the question that you expected to be asked?

Witness—Am I bound to answer that?

Mr. TOWNSEND—I think you are.

A pause for a considerable time.

Witness—Well, then, if I am bound to answer, it was with regard to my religious opinions—that is all I will answer on this point.

Mr. TOWNSEND—Madam, you appear to have about you intel-

ligence enough to enable you to form an opinion—do you think the proper administration of justice could be preserved if such conduct were permitted as you are now pursuing?

Witness—I do not think I ought to give answers on such points.

Mr. TOWNSEND—A Court of Justice would compel an answer.

Mr. DOLAN—Will the witness detail the conversation?

Witness—I could not detail it.

Mr. DOLAN—Detail the substance of it.

Witness—I will not detail it at all.

Mr. DOLAN—I shall not ask this lady any more questions—under the circumstances; from such a person I could not expect the whole truth. I will not ask her any more questions.

Mr. TOWNSEND—At all.

Mr. DOLAN—Not at all.

Witness withdrew.

Mr. ROWAN—Is a witness bound to submit to such a line of cross-examination? Is a witness bound to answer a question as to her Religion; or suppose Miss Taggart had consulted an eminent lawyer as to the propriety of her detailing the conversation, that she may have had, and that he said she should violate the confidence by detailing them—is she bound to answer?

Mr. TOWNSEND—This has nothing to do with confidential communication, such as was pleaded here on another occasion against the right of requiring evidence on a certain subject; this is a confidence for the occasion—the other was a confidence of a different nature.

Mr. DOLAN—All that I know of the business is simply this—If she had acted in a Court of Justice as she has just done here, she would be committed to gaol for her contumacy.

Mrs. Letitia Noble sworn and examined by Mr. Townsend.

Is a warder here of the second class of the second division; has been five months in this Institution; recollects an occurrence that was the subject of an Inquiry here, it was this—The warders always read a chapter of the Bible in the morning, when women come into the work-room. The warders then explain any passages that they think the women can't understand; the Catholics are never present; there may be words that the prisoners don't understand; sometimes the prisoners ask a question, and sometimes the warders explain without their asking, supposing they can't understand; after that, prayers are said; these prayers are selected by Mr. Higgin; one of the women under witness's care, attempted to leave the room when the Bible was read; witness asked why she did so? she said she did not wish to remain in the room, while the Bible was read; the warder had not began to read the Bible when the prisoner stood up to leave the room; she could not know whether what they were going to read was in the Old or New Testament; witness asked the cause of her leaving the room, and she said, she wished to leave the room with the Roman Catholic women,

Mr. TOWNSEND—Allow me to interrupt your narrative to ask one question. Do you ever read the Bible, or any part of the Testament for the Roman Catholic women?

Witness—Never. I have frequently read the Douay Testament for the Roman Catholic women.

Mr. O'DONOVAN—Not the version approved of by the Catholic Church. The one that is in use here is a spurious version.

Witness—The one I have read is that which all the Roman Catholic women here have used.

Examination resumed—Miss Taggart came into the room and asked what was the matter? Witness said, that one of the women had stood up to leave the room, without asking leave. Morrison, who was the woman, was at the time a professed Protestant, and had not put down her name for Chapel at the time; Miss Taggart asked the woman what objection had she, was it to the Scriptures? The woman said, she neither objected to the reading of the Bible nor to the prayers, but that she wished to go to Chapel; she never before expressed a wish to go, as witness would have put her name in the morning report; Miss Taggart said to witness, that if she (the woman) left the Church, she would be prevented from reading the word of God, which they (the Protestants) had; Miss Taggart then read a chapter of the Bible, and witness prayed, the prisoner Morrison not leaving the room; witness was then obliged to leave the room to go down to her division to get breakfast; Miss Taggart said to witness, when witness was cleaning the room, that she would like to say a word to her Protestant women, before the Catholics came in; witness then brought up the necessary things for breakfast, with her (witness's) cleaner who was with her; witness went down to Miss Freeman's to leave her morning report; witness had only got into Miss Freeman's hall, when hearing a very great noise in the work room, she immediately returned; the time since witness left the work room could not be more than two minutes at the most; when witness entered the work-room it was quite a scene of confusion; some of the women objected to something Miss Taggart said; when witness entered, all her Catholic women who were entering the room as witness was leaving it to go to Miss Freeman, were in the room; when witness entered, she begged they would be silent, until she would bring Miss Freeman; when Miss Freeman came in, she found the room in such a state, that she said she would bring Mr. Higgin, which she did; Mr. Higgin accordingly came with Miss Freeman, and pacified the women, by assuring them that when the governor came home, there should be justice done to all parties.

Mr. TOWNSEND (to Miss Taggart, who was in the room) did the Catholics hear what you said to the Protestant women in the work-room?

Miss TAGGART—They might have heard what I said, but they were not in the room, they were outside in the corridor; I do not

think they could have heard, the room is forty feet long I suppose, and I was at the other end of it; Ann Morrison was present, but she was then a Protestant.

Mr. TOWNSEND—Yes, but she had declared her intention of becoming a Catholic.

Mrs. NOBLE—She never declared her intention of becoming a Catholic until that moment.

Mr. DOLAN (to Mr. Townsend)—If you look at Mr. Higgin's list, you will find that she declared to be a Catholic after her probation when she came in.

Mrs. NOBLE—She did not repeat her application to go to Chapel.

Mr. DOLAN—Oh! not after Miss Taggart's lectures.

Mr. TOWNSEND—Mr. Higgin, do you believe the list to be correct which you handed in?

Rev. Mr. HIGGIN—I do.

Examination resumed.—Witness does not know the reason of her not persisting to go to Chapel; she never spoke to witness after on the subject; this is all witness knows; is aware that more conversions have occurred here than in any other place, or at least a greater proportion; attributes that to the anxiety of the women for instruction; when witness says instruction, she means having the Scriptures explained to them; witness is of opinion that many of them think they would obtain favor by going to Church; witness has never seen any ground for the prisoners entertaining that opinion, but witness really thinks they do entertain it; witness has heard it from some of the women who are now Protestants, that is converts to Protestantism; has heard them say, that they might obtain favor; has never heard, or observed in the smallest degree, any difference in the treatment of a Protestant and Roman Catholic in the place; has heard from the governor, on her coming into the house, that justice should be administered to all; no other cause for conversion besides these occurs to witness; witness was never in any class but the one, and has not known of the probation; has heard of the effects of the probation week, on the prisoners coming in; knew two instances of conversions to have occurred in her division: these women were both Protestants, and became Catholics; witness cannot say what they declared themselves when they came in, or what they were, before they came in; when these women declared their intention to change, witness reasoned with them, and asked them their object in changing, or what did they object to in the Church to which they belonged; they both said that they objected to nothing, but that they wished to go to Chapel; there was a week intervening between these two conversions; witness marked in the morning's report the wish of these women; they remained in their wards for eight mornings; it does not strike witness that any one came to them during the time; they went to Chapel the Sunday following, at the expiration of the eight days; they remained at Chapel one week, and came

back; they were not confined more for the eight days than the time while prayers were saying in the Protestant Church.

Mr. TOWNSEND—While one of them was going through her probation to become a Catholic, the other was going through hers to go back again to Church.

Witness—Yes; on the first probation week, the women are not allowed to go any where after they come in; after that they are allowed to go where they please.

Mr. TOWNSEND—Did Mr. O'Donovan see either of the women you have mentioned?

Witness—No, sir; I asked the woman, the second woman, while she was in the probation to become a Protestant again, did she wish to see Mr. O'Donovan, and she said that she did not.

Mr. TOWNSEND—Did you conceive that, according to the rule, Mr. O'Donovan was admissible to see her—did he know it?

Witness—I am sure if Mr. O'Donovan expressed a wish to see her, he could, and I am sure he must have known it, from the Catholic women; I did not communicate at all with Mr. O'Donovan on the subject.

Examination resumed—When the first woman expressed a wish to become a Protestant again, she did not see Mr. O'Donovan; in the morning reports there is an intimation given of any change of Religion intended; the report is given to the governor, but witness cannot say what becomes of it afterwards; the names of the two women whom witness has mentioned are, Mary Flynn, and Catherine Salmon.

Examined by Mr. Rowan—Has never heard the women express any disappointment at not finding a change of treatment when they became Protestants; these two women, Salmon and Flynn, expressed, when they went back again, marked regret, at leaving the Protestant Church; one of the women, Mary Flynn, said, that it grieved her to find, that when she went into the room, she got no religious instruction, and which would not have been the case, if she had remained with Mr. Higgin; the other woman also expressed a similar regret; is sure the Catholic women must have told Mr. O'Donovan if he came to the division the time of the probation of the second woman, of her change; witness at all times would have answered any question on the subject from Mr. O'Donovan; if Mr. O'Donovan at any time had asked witness if there were any Catholic women in her division, and who they were, he would have no difficulty, not the smallest, if he wished, to see them; has never known Mr. O'Donovan, unless at Chapel, giving any instructions, moral, religious, or literary, to his flock; has never been in the room when Mr. O'Donovan was present with the Roman Catholic women.

Cross-examined by Mr. Dolan, through Mr. O'Donovan—Has known of Protestant women turning over to Chapel, since this Investigation began; does not know their names; witness never personally apprised Mr. Higgin of a prisoner being about to become a

Protestant ; witness, in the two instances, mentioned it, and these were the only that occurred ; did not apprise Mr. Higgin otherwise than by putting it in the morning report.

Mr. DOLAN—I think it right to say, that the Memorialists do not accuse the witness in any way.

Mr. ROWAN—Will you not ask her about her Religion ?

Mr. DOLAN—There is no occasion—Mrs. Noble shows too much candour to lead us to suppose that she is an incorrigible fanatic.

Cross-examination resumed—Has had no opportunity of knowing the effects of the probation week.

Mr. DOLAN—Have you any reason to know that Miss Taggart has been particularly clever in making proselytes ?

Witness—I have had time only to mind my own division.

Mr. DOLAN—Have you had no reason to know the fact ?

Mr. TOWNSEND—I do not think that would be evidence ; Mrs. Noble's answer says, that she had only time to mind her own business, and the opinion of Mrs. Noble would not affect Miss Taggart.

As this witness was retiring,

Mr. O'DONOVAN—(to Mrs. Noble)—Mrs. Noble, I assure you, most sincerely, I am very sorry that you are to leave the Penitentiary ; the Institution will suffer a loss in your retirement.

Mrs. NOBLE—Sir, I feel much obliged to you.

The witness withdrew.

Mr. DOLAN, at this period of the proceedings, was compelled, by business, to leave the Court.

Mr. Edward Allison, Deputy Keeper of Kilmainham, sworn and examined by Mr. Townsend.

This witness is an Englishman.

What situation do you hold in Kilmainham prison ?—I am deputy keeper under Mr. Dunn.

Do you recollect the introduction of an iron helmet into the gaol at Kilmainham ?—I do ; I cannot speak precisely to the time, but I suppose it is about six or seven years since ; it was brought here by the son of the governor of the Preston House of Correction ; I was the person who received it.

Where did he get it ?—He brought it from his father's place at Preston, to the Rev. Robert Nixon, the Inspector of our gaol, who had been visiting several gaols in England, and Preston amongst the rest.

Had he more than one ?—No ; I think he only brought one over.

What became of it ?—I remember a person coming from this Establishment to borrow it, until there was one made similar to it.

How long since ?—I think this occurred, as nearly as I recollect, about four years ago.

Was it ever returned ?—Not to my knowledge.

Have you known it to be used in Kilmainham ?—I have.

For what length of time?—I think the time never exceeded an hour.

How often was it used?—I think it was only used two or three times, and was only used, generally, for no more than a few minutes; it was taken off soon.

Mr. TOWNSEND—Why was it taken off so soon?

Witness—Because it was considered to be on long enough. It was always taken off when the person on whom it was, showed signs of repentance; when the prisoner did so, it was always taken off.

Mr. TOWNSEND—Have you any reason to know that there were any made?

Witness—No.

Mr. TOWNSEND—In whose time was it sent for?

Witness—I think it was sent for in Mr. Hollingsworth's time.

Mr. TOWNSEND—Could you recollect the instrument if you saw it?

Witness—I can't say; I think I'd recollect it, for it was broken when it left Kilmainham—(it was here produced, and examined by witness)—I cannot swear to it; I cannot say; it appears to be repaired here; and I am sure it was never repaired at Kilmainham.

Major PALMER—Do you think it is the same?

Witness—From the Preston mark being on it, I suppose it to be the same; but I am sure that the one which the person got at Kilmainham was broken when I gave it.

Mr. TOWNSEND—It would be no easy matter to impress the Preston mark on it?

Witness—Oh! yes, sir, quite easy; it would be very easy to print it, but I suppose it is the same.

Examination resumed—Have you ever seen an instrument of the same kind used elsewhere?—I have; I have seen it used in Bolton, in Lancashire.

How long since?—I think it is about twenty-five years ago since I saw it used.

For what purpose was it used?—It was used at a public exhibition of some notorious characters—women in the market place—the women were notorious bad characters, who were a nuisance to the town; the constable used to keep the instrument in his possession, and they used to be exhibited with this on them, for an hour.

Have you often seen it used?—I only saw one instance of it; it went by the name of a bridle, and there was a great deal of terror attached to it.

Do you think it causes great pain?—I think there must be pain attached to it; I suppose it must pain the mouth if any opposition be made to putting it on.

By Mr. Townsend—It was laid aside at Kilmainham, and was broken by a woman who had it on her head, it was broken as

it is now, or something more; it was broken in the course of an hour; the small padlock that was on it was also broken, and all thrown out of the window.

Cross-examined by Mr. O'Dwyer—This helmet is that kind of instrument whose disagreeable effects could only be ascertained accurately by wearing it on one's self for the length of time that it is put upon a prisoner; pray, Mr. Allison, have you ever worn it?—Oh! never.

You say the helmet was always in the possession of the constable of Bolton; precedent will not sanction cruelty; Do you not know that even now, much more twenty-five years since, English constables as well as Irish constables do things contrary to law and humanity?—I am aware of that.

Will you state who the person from this house was who received the helmet from you at Kilmainham?—I cannot say, but I am certain it was a servant of this house.

What opinion was entertained at Kilmainham about the use of this iron helmet on prisoners; have you ever heard it reprobated? I have heard persons speak against it.

Will you state who those persons were?—Dr. Trevor has spoken against it—he exclaimed bitterly against its use.

Doctor Trevor ought to be a very high opinion on such a subject; he is a gentleman of great experience; pray how long is he in the management or superintendence of a prison?

Mr. TOWNSEND—I can answer that question better than the witness; I know him since the year 1800.

Mr. O'DWYER—In what terms did that respectable gentleman express his opinion of the helmet?—he said that it was a barbarous and cruel instrument and not fit to be used in a civilized country.

On what extraordinary occurrences was it used at Kilmainham? The helmet was used on boisterous and unruly persons, who could not be appeased by any other means.

Mr. ROWAN—Now, sir, what has this line of cross-examination to do with the matter. Am I to be tried by the rules at Kilmainham.

Mr. TOWNSEND—Really, Mr. O'Dwyer, I cannot see as yet, how your cross-examination is available. You are aware that Kilmainhan is a county prison, and that this Institution is a Penitentiary established under a special Act of Parliament.

Mr. O'DWYER—I am quite aware of the distinction; but I submit that there is no special statute to prescribe a difference of punishments between this and ordinary prisons; and that what is illegal and inhuman in Kimainham is illegal and inhuman at the Richmond General Penitentiary. The object of all prisons is the same. Reformation is the ultimate object.

Mr. TOWNSEND—The difference is, that a county prison is a place to lodge a prisoner before trial.

Mr. O'DWYER—Very true, sir. But prisoners are always to be found there, who are serving a term of imprisonment. (To witness)

Do not prisoners serve the term of imprisonment of their sentence at Kilmainham ?—Yes, and convicts are sent there.

Have you known an officer of this Establishment of the name of Bailey ?—Yes, his wife was matron at Kilmainham, and he used to come and see her.

Have you had frequent conversations with him ?—Yes; they were, however, only casual.

We don't suspect you of being an acquaintance. Have you spoken to him of this Penitentiary ?—Yes.

Has he ever said to you—"We have got another convert by torture ?"—No, not by torture. He has said, "We have got another from the Priest."

Bailey was a Protestant ?—He was.

Are there a Protestant and Roman Catholic Chaplain at Kilmainham ?—Certainly.

I dare say Kilmainham has as turbulent and dangerous characters in it as any other prison. Have you ever known jack chains used there to gag the mouths of prisoners ?—Never, never.

Have you never used large iron keys for that purpose ?—Never. We have used, but not frequently, bits of wood about the circumference of my finger, and about seven inches long, but not frequently, and not for five minutes; these gags were tied behind.

Have you ever tied iron latches across the mouth ?—Never.

Mr. Rowan—I really must say, that this is the most extraordinary proceeding I ever knew in my life, what have the practices of Kilmainham to do with this Institution ?

Mr. Townsend—I am not taking down the answers of the witness.

Mr. O'Dwyer—If you consider the cross-examination unimportant, it is needless for me to pursue it.

Mr. Townsend—Oh, I do not say it is all unimportant. I have taken the general declaration of the witness, that such modes of punishment are not in use at Kilmainham.

Mr. O'Dwyer—I must say, with great respect, that I think there ought to be a very considerable analogy in the practice of both places. Kilmainham is a prison of great importance, and it being under the superintendance of the Inspectors-General, two of the Commissioners of this Inquiry, I must assume that it is well managed. If such punishments are dispensed with in Kilmainham, I do not know any quality in the air of the Richmond Penitentiary to make them necessary. My object is to show that the practices of this prison, be they what they may, have the merit of originality, and that no other prison would sanction them. Mr. Rowan has urged as a cause for his not making a code of rules for this place, that his experience did not justify him .Now, Mr. Allison is a gentleman of experience, and he indignantly denied, at the commencement of his cross-examination, that they had in use in Kilmainham the instruments used here. I wish for answers to my questions, and then let them be considered *valeat quantum*. If the Commissioners have any objection to my asking the question, I shall desist.

Mr. Townsend—Oh! no; go on.

Mr. O'Dwyer—Do you use solitary confinement as a punishment in Kilmainham?—We do.

How long does your punishment of solitary confinement usually continue?—Not longer than forty-eight hours.

Are there in your solitary cells, wooden stocks or hand-cuffs?—What!

Wooden stocks fixed up at the end of a board bed, through which the legs protrude?—No, I have never seen them.

The wooden handcuffs are a large piece of timber intervening between each hand, with holes at either end for the wrists to go through. Do you ever use these?—Never, we use iron handcuffs, when prisoners are going to and from their trials.

Do you use irons in your prison?—No, unless on convicts when we are sending them to the hulk.

Pray have you used strait waistcoats on prisoners at Kilmainham?—As a punishment do you mean?—Yes.—Oh! never, they may be used on lunatics—on none others.

If a prisoner threatened the life of a keeper, or the life of another prisoner, what course would you pursue?—I would not attach any credit to such an expression, I would regard it as a mere idle threat.

Mr. Townsend—If a prisoner showed an intention of committing suicide, what would you do?—I would place a fellow prisoner or confidential person to take care of him.

Mr. O'Dwyer—Have you ever put handcuffs on prisoners' wrists, and irons on their legs, with a chain connecting their legs and their wrists together?—Never.

Now you are a practical man in the management of a prison, and you have had a great deal of experience, if you were told that strait waistcoats, jack chains latches and keys for gagging the mouth, wooden and iron handcuffs, and wooden stocks were used; if you were told that a prisoner had been handcuffed and ironed on the legs, at the same time with a chain connecting his legs and his hands together, what term would you apply to such practices?—I do not wish to give any opinion, I should rather not be asked.

Very well; we will not press you.—Have you female prisoners under your charge?—Yes.

How do you treat them?

Mr. Rowan here warmly interfered, and repeated his former objection against such a line of cross-examination.

Mr. Townsend—You appear to forget Mr. O'Dwyer, that a Penitentiary and a County Prison bear no resemblance, a County Prison is more especially a place to secure prisoners, and to have them forthcoming for trial.

Mr. O'Dwyer—I know that, sir; the last observation suggests to me, to ask now a question that I would not have asked at this period. What means do you, who do not adopt such measures

as I have already pointed out, use to secure the safety of prisoners?—I secure their safe keeping, by placing them in their cells.

Do you use leather muffs on women?— What are they?

They are leather boxes, or valisses, that are put on the arms, which are previously strapped together, and chained or pinioned behind the back, and from the strap a staple protrudes through the outside covering which is called the muff; there is a lock put on the staple, and the muff itself is fastened with buckles. Have you never used them?—Never.

Now a woman from her sex, is weaker than a man, and requires less violent means to coerce her, or to reduce her to submission. Have you ever seen women in chains, wooden handcuffs, or strait waistcoats for mere punishment?—Some women are unruly enough, (a laugh) I knew a woman so unruly as to require three men to overpower her; she was very desperate though; she was the person on whom the helmet was put, and by whom it was broke.

Have you heard quarrels amongst the women at Kilmainham, on the subject of Religion?—Yes, I have known the convicts quarrel.

Do the officers at Kilmainham, read and expound the Scriptures to prisoners?—Yes, the matron is particularly enjoined to do so, but there is a Religious Society of ladies, both Catholics and Protestants who attend the prison.

As I before remarked, Mr. Allison, you are a practical man, and in habits of intercourse with those conversant in prison management. Have you ever heard reports about this Penitentiary amongst persons of the class I speak of?—Yes.

Have you ever heard that the Penitentiary was not only remarkable for the number of conversions in it, but for the extraordinary character of its punishments?—I have heard that undue severity was exercised at the Richmond Penitentiary.

Every opinion of yours Mr. Allison deserves consideration, inasmuch as it is founded on observation and experience, which Mr. Rowan on more than one occasion alledged he had not sufficiently. Now, do you think that simple solitary confinement would answer the purposes of more coercive measures?—I do.

Mr. Rowan—Well, this is really the most extraordinary examination ever I heard!

Mr. O'Dwyer—No matter, it answers my purpose; if I show that the practices here would be called cruelty at Kilmainham, I attain my object. (To witness)—When you saw the iron helmet used in England twenty-five years ago, for what purpose was it used? For the purpose of holding persons up to scorn.

Do you not know that there were many punishments in use twenty-five years ago, that the public opinion of the present day, would revolt against it; pillory and flogging in the army have yielded to the force of opinion, and are discontinued?—I think so, punishments used twenty-five years ago, are now greatly relaxed.

Was there more than one helmet used on the occasion to which you allude?—I think there were two.

Mr. O'Dwyer—We will not trouble this Gentleman with any more questions.

Mr. Rowan—I think those you asked him were very irrelevant and unnecessary.

Mr. O'Dwyer—May be so.

Mr. Glascott—(Note-taker for the accused)—I have not taken a word of it.

Mr. O'Dwyer—Then it is fortunate that I did not depend on you for the abstract of the cross-examination which you offered me. The Crown Solicitor has kindly furnished me with his notes.

Witness withdrew.

Mrs. Farrell sworn and examined.

This old woman appeared greatly agitated; she appeared to be labouring under extreme illness; Miss Freeman, Mr. Higgin, and Mr. Townsend, did everything in their power to soothe her. She expressed a great reluctance to be examined, and stated, that she never was examined in a Court in her life.

Rev. Mr. O'Donovan mentioned to the Court, that he was aware she had a great objection to be examined here, as she was a Catholic.

Catherine Farrell examined by Mr. Townsend—Is hospital warder here; is a Roman Catholic; was appointed here March 20, 1820, that was the opening of the prison; the situation to which she was then appointed was the inspector of the great kitchen and laundry; remained in the laundry until the governor came in; has been more than two years in the hospital; remembers Rose M'Carthy; she was for some time in the hospital, under care of witness; she was brought up there sick; she was very well conducted while she was there; witness had nothing to say against her all the while she was there; when she was brought to hospital, there were directions sent that no one should see her for a week, but Miss Freeman; witness allowed no one to see her; she made her own bed; at the end of the week she reported for Miss Freeman, who came to her; witness retired when Miss Freeman came; witness does not know how long she remained, but believes she was there three weeks, for she was once absent from any place of worship, and she was twice at Chapel; she was not sick all the time; witness does not know how she came to remain there; witness did not ask the reason; has heard of a great number here changing their Religion.

Mr. Townsend—Do you know of the conversions here?

Witness—Oh, sir! Oh, sir! I do not know anything of that.

Mr. Townsend—Answer the question.

Witness—Some of them have told me that they went for the sake of getting favor. Oh, sir, I know nothing of it; I know no-

thing of it at all; I never have interfered with them. I never had any under my care since I left the laundry, but those in hospital.

Examination resumed—The women who had changed, underwent the change before they came to the laundry; has not heard them say anything about it, only sometimes; they have said that witness was more partial to the Roman Catholics than them; has heard the prisoners who changed say, that they changed in expectation of getting favor; witness used to keep away from them as much as she could, and when they used to speak about it, witness has told them to say nothing to her on that subject; knows no other reasons than she has mentioned, for the changes; they expected to get more ease and favor; witness has no opportunity of seeing is there any difference of treatment between Protestants and Roman Catholics; they are treated alike in hospital, where witness is; witness used to see Rose M'Carthy, before she came to hospital, when she went round with the Doctor; M'Carthy used then to salute witness merely; while M'Carthy was in the hospital, she behaved very quietly, and whenever witness advised her to be quiet, she used to say she would; she (M'Carthy) had no opportunity of being friendly with witness before she went to the hospital; all the prisoners are friendly in their manner to witness; Rose M'Carthy had on a strait waistcoat all the while she was in the prison; thinks that waistcoat was not on by orders of the doctor, for he ordered her hands to be loosened, except when witness let her out in the yard; witness used to loose them at her meals, and when she went into the yard, or went to Chapel; witness used to tighten and to untighten them, when she wanted to clean her ward; the waistcoat used not to be tied by witness, so as to hurt her at any time; when M'Carthy used to lie down in bed, the coat was loosened, so as that it should not press on the chest, and when she wanted to eat, she used to be loosened; does not know the reason the strait waistcoat was put on her, but she does know when she came to witness, she had on the waistcoat; witness was directed not to take it off until ordered; believes it was Miss Freeman gave the order, for it was Miss Freeman brought her up.

Cross-examined by Mr. O'Dwyer—Do you recollect Mary Lane? I do.

Did she ever tell you while she was in hospital, that she was a Roman Catholic?—Oh, I don't know any thing about these things. I wish you would let me go away.

Mr. Townsend—You must answer, my good woman, any questions this gentleman will ask you. You need not be alarmed here.

Witness—Oh, sir, I was never in a Court of Justice before, and I'm sure I don't like to be in it now!

Mr. O'Donovan—You need be under no apprehension here. Answer the question.

Mr. O'Dwyer—Do you remember Mary Lane saying any thing about her wishing to die a Roman Catholic?—I do. She said she

wished to die a Catholic, but that while she was in health she did not care how long she continued to go the other way.

Do you think when she called herself a Protestant, she really was one ?—I don't think she ever was a Protestant in her heart.

Do you know of any other person wishing to return to the Roman Catholic Religion ?—Oh, I must get time to recollect. I never wished to listen to them at all for fear of getting the ill will of the people.

What people ?—The prisoners.

Was it the ill will of the prisoners you dreaded ?—Oh, it was not sir ; it was for fear of the ill will of the governor, or Miss Freeman, or Mr. Algeo.

Why did you fear them ?—Because they were Protestants themselves, sir.

Do you think they would treat you with unkindness ?—Oh, no, indeed.

Why then were you afraid ?—Oh, dear me ! dear me !

Why are you afraid ?—I was afraid that I would lose my situation, because they were Protestants themselves, if I meddled in such things. Indeed the governor was always kind and good to me ; indeed he always was.

Was Mr. Algeo always good to you ; do you know him ?—He is an officer here, and indeed he too was always civil and complaisant to me.

Did you ever suffer any unkindness from Miss Freeman ?—Oh, lord ! no sir, indeed ; she was always civil and good to me, too.

Did you ever hear the prisoners complain of being kept from Mass ?—I heard some of them say, they were kept three weeks from going to Chapel ; but I don't know any thing at all about those things.

Mr. O'Dwyer—We will not ask this old woman any other question ; there is no use.

Witness withdrew

The Court adjourned.

Defence—Fifteenth Day—October 12.

Mr. Townsend took his place at an early hour. Before the arrival of the other Commissioners, the following conversation took place :—

Mr. ROWAN—I think it must have appeared to you, sir, that the cross-examination of Mr. Allison yesterday, was a needless exhibition.

Mr. TOWNSEND—I certainly disagree with you, Mr. Rowan. It was exactly what I expected when I saw Mr. Allison produced ; and I conceive the line of cross-examination pursued, was judicious.

Mr. GLASCOTT—Oh, I have not taken a word of it.

Mr. TOWNSEND—Neither have I taken it all down ; but I have taken such parts of it as I conceived important.

Mr. ROWAN—I should not at all have produced Mr. Allison, had it not been for the purpose of showing that I did not put forward anything in my statement that I had not evidence to support. I think his cross-examination was very unimportant.

Mr. TOWNSEND—Perhaps you think so, Mr. Rowan.

The conversation here ended.

The COURT being now assembled,

Mr. ROWAN begged that the Court would read a letter addressed to the Reverend Inspector of Kilmainham prison, who was not now in town, but had directed the letter to be forwarded to him (Mr. Rowan.) It was from the governor of the Preston House of Correction, and related to the use of the iron helmet.

Mr. TOWNSEND objected to the letter being read ; it would not be right to read it unless in evidence, and how far that might become evidence, would be a matter for serious consideration.

Mr. ROWAN persevered for some time in requesting that the letter should be read, but at length acquiesced in the decision of the Court. Mr. Rowan said, he might be permitted to state as a curious fact regarding this instrument, that the governor of the Preston House, in his letter, had entered into an etymological description of its origin. It had, he stated, been used by the Romans, and had given rise to the old adage, " let him bite the bridle, &c. &c."

Mrs. Jane Cooney sworn and examined by Mr. Townsend.

Has been a warder here for thirteen months ; knew a woman of the name of Bridget Nowlan ; she was in the fifth division, in the first class, of which witness was then officer. Remembers her a cleaner in witness's division ; she took the situation in rotation with others ; remembers nothing of what occurred at any time, when she (Nowlan) brought witness a dinner knife, instead of a breakfast-knife ; never on that, or any other occasion, threw a knife at her or to her.—(Here Mr. Townsend read the evidence on this circum-

stance, as deposed by Bridget Nowlan.)—Witness never threw a knife at her; is perfectly certain of that; if she (Nowlan) has stated it, she has sworn falsely. Is a Protestant of the Church of England; has never known any means either of favour or affection, to induce any Roman Catholic in this Penitentiary to become a Protestant; witness never used any such means; never received any direction from the governor relative to making converts; was told, on coming here, by the matron, to act with impartiality, to show neither favor nor affection, but to report the women according to their deserts. Miss Freeman said nothing about there being a difference of Religion here; witness's directions were to teach the women spelling and reading, and to report impartially on their conduct; was apprised of there being Roman Catholics here; got no direction at the time as to what books witness was to read to them; does not recollect that at any time after, she got instructions; chosen books were left in the division; has read the Bible to the prisoners; Protestants and Catholics came at the same time, and witness read a part of the Old and New Testament for them all; Nowlan was in the first class when witness came here; she was removed to another place; she was in the work-room in the day, and slept in witness's division; she was removed from the laundry to the work-room; when she was sick, she was supplied with provision by witness; when she was removed from the laundry it was witness's business when she was sick, to leave her ward open, and it was the business of Miss Taggart to give her food; does not recollect any dispute as to whose duty it was, whether Miss Taggart or witness was to give the woman her food.

Mr. ROWAN asked no question.

Mr. DOLAN—Are you a methodist, madam?

Witness—No, sir.

The witness withdrew.

Mr. ROWAN said, he would now offer the Rev. Mr. Higgin as a witness, and in doing so, he would state, that no communication whatever regarding this inquiry, had passed between him and that gentleman; it evinced his scrupulous honor and delicacy, if any proof were wanting, to convince the Court of the perfect propriety of conduct of Mr. Higgin.

Mr. TOWNSEND said, that he did not think any observations from Mr. Rowan on that subject were necessary; Mr. Higgin's character did not need any eulogy. In this expression Mr. O'Donovan and his friends fully concurred.

The Rev. Wm. Higgin sworn, and examined by Mr. Townsend.

What situation do you hold in the Penitentiary?—I am Protestant Chaplain here.

When did you receive your appointment to that office?—I was appointed January 1820, but I did not come to reside until June of the same year; I was appointed on the opening of the Institution.

Do you know of any plan or means, by persuasion or induce-

ment that has been adopted here, to induce conversions from the Catholic, to the Protestant Church?—No, I do not know, but there is a rule *indirectly* leading to—

Mr. ROWAN—I beg to interfere; I respectfully submit, that the Commissioners do not sit here to inquire into the nature of the rules of this Institution; they are only to ascertain what these rules are, and to investigate whether they are equally and impartially administered; the rules of this Institution have been framed with the concurrence of Government, and the object of this Inquiry is not to inquire into the propriety of these rules, but to ascertain whether they have been abused by those whose duty it was to ensure their observance: the rules are framed with the concurrence of Government, and—

Mr. TOWNSEND—Mr. Rowan, I know no such thing.

Mr. ROWAN—You are bound to assume, sir, that they are, until there is a proof to the contrary; you know that I am a confidential officer of the Government, and in frequent communication with Government, and from that fact you should presume, that the regulations of this Prison, meet with the approbation of the Government. You have been sent here to inquire whether means of a certain kind have been used to proselytize the Catholic prisoners; and by an extension of your original commission, you are authorised to investigate allegations charging cruelty; you have, however, no authority, I contend, to inquire into the fitness of the rules themselves; your jurisdiction only authorises you to investigate into their administration; if the Lord Lieutenant disapprove of of these rules, his Excellency can demand to see them, and can alter or amend them. Are the rules of this prison to be judged by the officers of the Institution? Is it right to put these rules upon the criticism of those who are bound to abide by them? I am advised, well advised, that your commission gives you no such authority as this line of examination you are now pursuing indicates, and that if you persist in what you are now doing, you exceed your authority.

Mr. TOWNSEND—Mr. Carmichael show me the Memorial—(reads)—I find this is one of the charges—"When an unfortu-"nate convict is received into the Penitentiary, he is put into a "solitary cell, or a lock-up ward, emissaries are sent to tell him, "that unless he be a Protestant, he need not expect any favor "there." Now I think that lets us in to inquire into all the rules relating to the subject.

Mr. DOLAN—You will find a subsequent paragraph still stronger.

Mr. ROWAN—You will find nothing to authorise you to inquire, into the rules.

Mr. TOWNSEND—(reads)—"Such unfortunate creatures as are "induced by terror, by threats, or by promises, to make a forced "confession of apostacy, are quickly let out."—again—"It would "be needless to enumerate all the means which have been adopted "to carry on this horrid persecution, gross partiality manifested

" towards Protestants, or those called *Jonies*, who are forced to
" make an outward profession of it, whilst cruel and unremitted
" punishments are inflicted upon such unfortunate Catholics as
" manifest an attachment to their Religion."—Is there no ground in those allegations, for our inquiry?

Mr. ROWAN—They all refer to the practice and not to the rule.

Mr. TOWNSEND—We cannot judge of the practice unless by an inquiry into the rule; indeed it has been alleged, " that there is no rule here but the governor's wish."—In my opinion, Mr. Higgin is bound to answer the question, does he know of any system in this place that tends to the result complained of, and what the nature of that system is?

Mr. ROWAN—Just allow me to say one word more.

Mr. GLASCOTT—Mr. Higgin's answer was not confined to the question which he was asked.

Mr. ROWAN—At an early stage of these proceedings, I expressed my opinion regarding the rules, and my opinion of the incompetency of this Commission to inquire into the propriety of the rules of this Institution; I felt it my duty to take the opinion of eminent counsel, on the subject; and the opinions I have received fortify me in my views; under these circumstances, I will find it to be my duty to enter a protest against the proceedings.

Mr. TOWNSEND—Very well, do so, you have given in evidence more than twenty times, the existence of the probation week; Mr. Higgin in giving evidence will only speak of the existence of the effects of that rule.

Mr. ROWAN—I dispute your authority to inquire at all into the rules—(here the Commissioners consulted for a moment)—If you please we will retire to give you time to consider the matter.

Major WOODWARD—Oh! not at all.

Mr. HIGGIN—I am not stating what was intended, I am stating the fact, I am stating my opinion, that the week of the first probation has produced many conversions.

Mr. TOWNSEND—In what manner?

Mr. HIGGIN—I think it accidentally holds out to the Roman Catholics, motives of a secular nature.

Major WOODWARD—I suppose you mean by " accidentally," " unintentionally."

Mr. HIGGIN—Yes.

The Examination here proceeded—Mr. Townsend interrogating.

Do you think the rule itself, or the exercise of it, affords opportunities?—I think the rule itself produces that effect.

Mr. TOWNSEND—Have the prisoners in general, during that week, opportunities of conversing with the other prisoners?

Mr. HIGGIN—I think they have an opportunity of conversing with the warders and wards-women, and the cleaners of the house.

Mr. TOWNSEND—Are the cleaners prisoners?

Mr. HIGGIN—They are.

Mr. TOWNSEND—Are any of those cleaners Roman Catholics?

They are—not many—there are some Roman Catholics here cleaners.

Do you mean there are Roman Catholic cleaners in the class where the prisoners undergo probation?—I think there is one at present in that class. In one of the third classes there is a Roman Catholic cleaner. There is a Roman Catholic cleaner of each class.

Then there is a Catholic cleaner at the male side who is a Catholic?—There is.

Mr. TOWNSEND (to Mr. Algeo) you probably know the details of this matter better—Is the cleaner of the third class, at the male side, a Roman Catholic?

Mr. ALGEO—There is one in the division.

There is a cleaner in each division?—Yes.

Witness—I was confounding divisions with classes; I know there is one Catholic cleaner here in one of the divisions at the male side; one of the three cleaners of the division is a Catholic.

Is there a cleaner at the female side a Catholic?—There is one.

The first probation week exists only in that class?—Yes; there are four lock-up classes at the female side.

Mr. DOLAN—I think it would be well if the Commissioners called for the names of the cleaners at both sides of the house; signifying their Religion since this probation rule was established.

Mr. TOWNSEND—It may be important. Do you know what time the probation week was instituted?

Witness—Yes; in April or May, 1824. I do not know that at the same time the two probation weeks were established.

Mr. TOWNSEND—Mr. Algeo, could you prepare a list of all the cleaners since 1824, detailing their Religion?

Mr. ALGEO—I think I could, sir.

Mr. TOWNSEND—Could you, Miss Freeman?

Miss FREEMAN—I will endeavour to do so, sir; but I was not here all the time.

Mr. TOWNSEND—And you will please distinguish those who were appointed cleaners since this Memorial was sent in (to Mr. Higgin). If in the first probation week, the acts of the cleaners produced this effect, might not the same effect be produced by the Roman Catholic cleaners; that is, might not Roman Catholic cleaners induce their prisoners to go to the Catholic Chapel?

Witness—Undoubtedly, when the cleaner is a Catholic, the effect might be produced, as far as conversion by a cleaner is concerned.

Do you conceive that any part of the effect of the first probation week arises from a cleaner?

Witness—I think it very possible; but the first great effect is produced by the principle itself.

Explain the reasons which induce you to think that the existence of the probation week, independently of the assistance of the cleaners, produces conversion?—It is a well-known fact, that the

population of this country are predominantly Roman Catholics, and ——

Mr. ROWAN—Now, is this evidence? Here is an abstract opinion derived from the population of the country; why there is not the least connexion in the circumstances.

Witness—Well, to alter my position, the ratio of admissions here since May 1820 to 1824, is, Catholics to Protestants, as 6 7-10ths to 1; or, for round numbers, as 37 to 10. I therefore take it for granted that the number of admissions here is considerably greater of Catholics than of Protestants. The ratio from May, 1824, when the probation week was established, to the period of the last admission, were about 8 Catholics to 27 Protestants. This is a fact upon which I form a strong opinion. I think, besides, that to tell a Catholic that he may be a Catholic or a Protestant, holds out more inducement to him to be a Protestant; he must know that this is (if I may so speak), a Protestant Institution; that is, that the governor is a Protestant, that the officers are principally Protestants, and these circumstances will have a certain influence upon him.

You say the prisoner must know it; now, he may accidentally learn it; do you conceive it to be so notorious that a Catholic must know it coming here?—I cannot say exactly that he must know it, but I think he must know it; during the probation week I think he must know it, communication is so rapid through every part of this house.

Mr. Higgin, what you have stated goes strongly to the fact that the probation week has the effect you describe; explain why it has the effect by its own physical existence?—I think the inference that a person, ignorant, as those of the class are, who come here, and probably without much moral or religious principle, would draw from the fact of the alternative of changing to the Protestant Religion, coupled with other circumstances, that it might be favourable, and that it might be his interest to become a Protestant; and knowing that the governor is a Protestant, as well as the fact of making the offer, suggests a motive for the change. In stating my opinion, I beg to be understood as not volunteering any opinion as to the propriety of the rule; I speak of what I consider to be its consequences.

Do you conceive this state of things to be the foundation of the opinion prevalent here, that there is more favor here for Protestants than for Catholics?—I think so—I think it has soured the minds of the Roman Catholics. At the same time I must state my belief that there have been many conversions, and from other causes, before this rule was in operation.

Mr. Higgin, you have had so much intercourse here with all parties, that you have better opportunities of forming an opinion than others, has there been anything in the conduct of the officers of this Institution, that has tended to promote this opinion amongst the prisoners?—I do not think there has been, generally; there

may have been a little anxiety, but very little; the conduct of the officers, I th ink has been generally correct, there may have been some instances.

What other causes of conversion occur to you?—There are causes connected with their residence in this house, but these causes do not apply to the first week. Any conversion in the probation week, cannot arise from any conviction produced here; it must arise from some view of interest, that is, if any person previously a Catholic declared to be a Protestant.

Mr. ROWAN—That, indeed, is assuming generally.

Major WOODWARD—It may arise from reflection.

Mr. TOWNSEND—How could we suppose that a person who we will imagine adhered for twenty or thirty years, as a Catholic, should, after a week's solitude here, without a book, or, as it is alleged, without any conversations on Religion, become a Protestant?

Mr. ROWAN—Suppose they never had any Religion at all—suppose they were only nominal Catholics?

Witness—There is scarcely any person who has not some notions of Religion; frequently the professions of ignorance, are as strong as the calm inferences of the mind; the thing too, is proposed during the week; they have a week to consider of it; that is the view that I take of it.

Resumed—Let us know of the occurrences after the first probation; there have been conversions of Protestants to the Catholic Church, what do you conceive to be the cause of these?—I think they must have arisen in some interested motive, but where there has been a relapse to the Catholic Church, after declaring in the first probation week to be Protestants, I have no doubt it is a sincere wish to go back to their own Religion that influences them; I think, however, there have been some sincere conversions.

Have you ever been induced to form an estimate to yourself of the proportion of sincere coviots?—My attention has been directed latterly to the subject; I think I state pretty accurately when I say, that I think there are twenty or thirty, independently of the probation week, sincere; I think better of those who were converted before any probation week was in existence, thanafterwards.

Recollecting that I was speaking, not of any conversion produced by the probation week, but of the case of a person who had been here suppose five or six months, a Catholic, and that that person became at the expiration of all that time, a Protestant, which do you think worse of that conversion, than of one that occurred before a probation existed in this establishment?—I think that conversion may be produced by the large number of Protestants.

Mr. TOWNSEND—Mr, Rowan, I may just say this, that if the Lord Lieutenant himself had made all those rules, and, indeed, your assertions amount in substance, to a declaration that the Lord Lieutenant is the maker of them, by delegating to you the

right, that circumstance would not prevent me from giving my opinion of the rules if I thought they were improper; we, the Commissioners of this inquiry, have spoken frequently together of all we have asked here to-day.

Mr. ROWAN—But, sir, I beg to say, with great respect, you were not sent here for the purpose, there has been no authority of the kind given to you.

Mr. TOWNSEND—That is your opinion I dare say, (to Mr. Higgin) you have mentioned that except in a few instances, the conduct of the officers, has not in any degree tended to promote an opinion here, that Protestants were treated more leniently than Catholics?—Yes, with the exception of Mr. Thomas Bailey, a warder, who is not here now—I always thought his conduct to be improper, I have been asked frequently by individuals, how far they could go with the Roman Catholics, and I told them to have nothing to do with them at all.

Major WOODWARD—Do you think they were influenced by conscientious feelings in thus asking you?—Yes.

Have you any reason to doubt of their having followed your advice?—Not at all.

Bailey I believe, has been out of this for a year and a half?—I believe so.

Is there any other exception you would wish to make as to what you said in favor of the officers?—No.

Have you, taking all those who have declared themselves Protestants since the probation week was instituted in 1824, have you any means of determining in your own judgment, how many were really Protestants?—I suppose one in three or four were really Protestants, one between three and four, probably from a third to a fourth of the declarations were sincere.

Then it seems to follow, that you think there are now in the prison a great many professing Protestants, who are not sincere Protestants?—I really could not answer that question.

Mr. DOLAN—Your evidence has already established facts from which an inference can be drawn.

Mr. TOWNSEND—Oh no, the evidence only establishes the number of insincere declarations; many of those whose conversions were insincere, may now be sincere from instruction; may not some of those insincere conversions be now sincere?—I think there may be many persons in the Institution, professing Protestants, who would not return to the Catholic church; I think the advantage of the probation week is this, that individuals declaring themselves Protestants, are put under a catechetical instruction, a part from all controversy, and I do not mean it, in the slightest disrespectful sense towards the Roman Catholic Chaplain, I think in the Church of England, we lay much greater stress on catechetical instruction, such as instruction on the being and attributes of God, than those of the Church of Rome do.

Do you think it follows that because a man was insincere at first, he would never be eventually a sincere Protestant?—It might occur, that a person in such circumstances would be sincere, but from the long time it takes to produce conviction, I think a long time would elapse before the conversion would be confirmed by conviction.

You stated the means best adapted to secure conversion are catechetical instruction?—Yes, certainly, or rather I will say, religious instruction generally.

The question is not very pleasant to ask, but I think it right to ask it, do you think the warders in general competent to give good religious instruction?—I think the warders on the female side are.

Will you state the advantages of the probation week, as they appear to you?—The individuals who come in here are very ignorant, but after they declare themselves as Protestants, they come under instruction.

We mean that you should state the advantages of the probation week itself. You have now stated the advantages of insincere conversions, I want to know the advantages independently of that?—I was speaking of these in reference to the other; probably there may be some temporal advantages which Mr. Rowan knows, to result from seclusion, but I certainly think any advantages had in this way, might be attained fully as well, if the prisoners were to declare their Religion the instant they entered the hall of this Institution; a week, or longer, of seclusion, might not be a bad thing, without any reference, however, in adopting such a plan of seclusion to the Religion of the prisoner but after his Religion had been declared.

The seclusion not to interfere with their going to their place of public worship?—Oh! most certainly not; I would not interfere with them in the exercise of their Religion.

Is any minister of Religion allowed to visit prisoners here, in solitary confinement?—Generally speaking, I have visited prisoners in solitary confinement, but there have been instances where I was prohibited, the prevention, however, is of rare occurrence.

Major PALMER—Do you understand it as a rule?

Witness—Not as a rule, the regulation sometimes is particular as to the individual; there have been occasional instances where I was prevented, but, generally, I can go to the prisoners, although they cannot come to me to Church; Mr. O'Donovan has the same privilege, for any thing I know to the contrary.

Do you think it favorable to the reformation of morals, or otherwise, that a number of people should be induced to declare themselves, by the influence of any circumstances, of one Religion, while they really belonged to another?—I do not think such a change favorable to their morals; I speak generally.

You think that all moral impressions are connected with Religion, and that moral improvement is not to be expected from a man who

declares himself to be of one Religion, while he really belonged to another ?—Most certainly.

Are there instances of Protestants, who were Protestants before they came, and who declared themselves Protestants coming here, afterwards becoming Catholics here ?—There are.

What do you suppose may be the number of persons of that description ?—I think three are the outside, four at the utmost I think, indeed I believe you may say three.

Have you any reason beyond the mere possibility of the fact, that any of the Roman Catholic cleaners availed themselves of the opportunity of the probation week, to work up the prisoners to become Protestants ?—No, I have not.

In the course of the probation week, do the prisoners, as far as you have been able to ascertain that fact, learn the difference of the degree of instruction they may be likely to receive here as Protestants and Catholics ?—I do not know, the only thing they could learn I suppose, is, the amount of duty performed by the Chaplains respectively.

Has it occurred to you that Protestants who have been induced to change from a hope of favor, have been disappointed ?—I am sure they have, and that they got no favor by it, none that I know of.

Do you think that any thing of that kind, and to any extent could exist long in this prison, and you not know it ?—Certainly not.

Having stated, that converts got no favor by declaring themselves Protestants, then if they originally declared themselves from interested motives, from the hope of favor to be Protestants, and afterwards found that they got no favor, how does it appear that they continue to go to Church ?—I think one reason is, they may not wish to retract, and I also think, that during the probation time, before they could return to the Catholic Church, they would be seen by me, and be spoken to by the officers.

Do you think any of them are induced to continue Protestants on account of the instruction they received ?—Yes.

Now I think a man really believing in the Religion he professes, may wish to be instructed in that Religion, but why should a man who does not believe in the efficacy of that Religion, of which the instruction is a part, why should a man of that kind set any value upon religious instruction ?—Many of those who come here are very ignorant, and may probably never have received any instruction, the instruction they get here may create an appetite in their minds.

Oh I know that, but I mean, what reason can those who have been instructed sedulously in the Protestant Religion, and still wish to go to the Catholic Church—what reason can a man have in such a case as this—to desire instruction in the Protestant Religion ?—I think that man has no real desire.

I ask you the question in order to have your opinion as to the motives which influence such people to go to Church, what mo-

son have they?—Why, I think that as they must have been for some time in the house to get this instruction, they may imagine that it is as well for them to continue professing Protestants; as I have stated about the sincere conversions, I think it right to say that there are thirteen individuals who have, as the list I handed in early in the proceedings states, become C. P. (Catholics first and Protestants afterwards) since the probation week was established, deducting that number from forty-three, which I consider the real number converted from Catholics to Protestants, leaves the real number thirty; the forty-three are those Catholics who became Protestants some time after admission into the Penitentiary; of these I do not think much of the conversions of the thirteen, some of the thirty I personally know not to be sincere, and I have therefore reduced the number of those I believe to be really sincere to between twenty and thirty, of the thirty probably, I think five or six of the thirty, are the most sincere, there have been some variations since the lists were handed in.

In estimating the Religion that the prisoners were of, before they made any declarations here, what grounds did you proceed on?—About a year ago, or a little more, my attention was excited to the number of Protestant prisoners, and I naturally felt desirous for my own personal satisfaction, to investigate the cause, I saw this increase of my flock in continual accession, I certainly thought the probation week was the cause of the increase.

That is the first probation week? yes, in consequence I made a report or census of the prisoners of the Institution; I made out this census, both by conversations with the individuals themselves, and by conversations with the warders, and with the schoolmaster at the male side; I had likewise other means of ascertaining the fact.

Is there a schoolmistress?—No, on the female side, the warders perform that duty.

You stated you had other means of ascertaining?—Yes, there is a distinction between the manner in which the Roman Catholics and Protestants repeat the Apostles' Creed, and I know the Religion of the individuals in this way, by the words they use. I likewise knew by the repetition of the Commandments, when the prisoners knew them, which is of course not so frequent; many of them being extremely ignorant, but there are few who cannot repeat the Creed, besides I can generally judge from their mode of conversation on Religious subjects; I ought perhaps say as a justification of myself, that the last women who were admitted, were in a greater degree of ignorance than any I may have met with before, and to the best of my recollection, several of them could not repeat the Creed; I might also have added, that there is a difference in the manner of the Protestants and Catholics repeating the Lord's Prayer, the Catholics invariably terminate the prayer at the word evil.

So that when you find a man who repeats the Lord's Prayer

and cannot repeat the doxology, you consider he is not a Protestant?—I do. Although it is an extraordinary fact that not one in a hundred in our Church repeat it right—not one in a hundred, say—"for thine is the kingdom, and the power, and the glory;" the word *and* is omitted. I here wish to say that the numerical calculations I have given, may not be to the very figure exact, but they are sufficiently accurate to support my opinions.

The COURT expressed no wish to examine the witness further at present.

Mr. TOWNSEND—I assure you, Mr. Rowan, if all you have heard to day was suppressed, what Mr. Higgin said, has occurred to us before.

Mr. ROWAN—There are few facts mentioned in the evidence—you have interrogated him upon points merely speculative. Mr. Glascott pray read the first question and answer.

(Mr. GLASCOTT read the first question and answer.)

Mr. HIGGIN—That is not the question that was put to me.

Mr. ROWAN—Oh! my notes say it.

Mr. HIGGIN—No; the question was so put to me, that I had no alternative. I was asked if I knew of any plan or means to induce proselytism. I was obliged by my oath to proceed in my answer to the rule I considered obnoxious.

Mr. TOWNSEND—There is no doubt at all in the case; our directions, and I will read the letter of instruction from the Government, warrant us in inquiring into the rule. But, Mr. Rowan, if you be disposed to enter your protest, pray give it in to Mr. Carmichael.

Mr. ROWAN—Sir, I wish to say a few words more.

Mr. TOWNSEND—Go on.

Mr. ROWAN—I feel the mischief of an inquiry such as this one, in the presence of the parties now here, and of the officers of this place; if the Lord Lieutenant had intended to question the propriety of those rules in use here, he would have directed specifically that such inquiry should be made, and it would have been made under different circumstances, and I should not be put on my trial upon the testimony of convicted felons.

Mr. DOLAN—Their evidence is as little to be suspected as that of those who have a direct interest in disproving the charges.

Mr. ROWAN—Allow me, sir, to proceed. Placed in such a situation, I am compelled to enter the protest which I hold in my hand, and in doing so, I beg to say that I intend nothing but the greatest respect possible to this Court.

PROTEST.

" Finding that the Commissioners are now about to inquire from " the Rev. Mr. Higgin his opinion respecting the fitness and pro- " priety of certain of the rules and regulations of this Institution, " and considering that they are not authorised by the Lord Lieu- " tenant's letter to make any such inquiry; in which opinion " I am supported by the advice of eminent Counsel: I hereby beg, " respectfully to protest against such a course as the Commissioners " have adopted; and feel persuaded that it is, and in the nature " of things must be, very prejudicial to this Institution to permit " officers to criticise rules and regulations, which they are " bound to obey, and the propriety of which they ought not to be " allowed to question. The rules of this Establishment, I contend, " ought to be considered by the Commissioners as sanctioned by " the Government, till that Government authorizes them to ques- " tion their propriety, and it seems to me that to allow the officers " of this Institution under the circumstances of this Inquiry, to " express opinions respecting the fitness of the rules, is no more " proper than to allow officers on Courts Martial to express opi- " nions with respect to the fitness and propriety of the regulations " of the Army, or the Articles of War. If the Lord Lieutenant " shall think it right to authorize Commissioners to frame rules " for this Establishment, my mind will be relieved from much " anxiety and responsibility; but if his Excellency shall previously " call upon me to state my views respecting the propriety of those " in existence, I feel no doubt but that I shall be able to justify " them.

" HILL W. ROWAN.

" 12th October, 1826."

Mr. ROWAN proceeded—The rules cannot be taken separately, they must be taken jointly; they are the result of great labour and experience, and, I may say dove-tailed into each other. There is not one of the officers, with the exception of the parties—

Mr. DOLAN—And Mr. Higgin.

—who will not say that any deviation from them creates disorganization. The course of examination adopted in regard to Mr. Higgin, imposes upon me silence. I cannot ask him a single question, his evidence has been entirely speculative; I did hope that from the examination of Mr. Higgin, a detail of facts would have been elicited, that would have supported my conduct in this Institution. I shall merely ask Mr. Higgin two questions, one of them refers to the rule—Have you, Mr. Higgin, ever, even whispered any disapprobation of the probation week until this Inquiry?

Never, Mr. Rowan—I have always heard from you that it was not my duty to interfere, and—

Mr. ROWAN—Ah! Mr. Higgin, will you confine yourself to an answer.

Mr. HIGGIN—Mr. Rowan, I must defend my own character, which is assailed by your question. Have you not this moment said in your protest that it was not my duty to criticise your rules, but that I and every other officer were bound to obey them, and not question their propriety? Have you not repeatedly told me that you took upon yourself all the responsibility of your own acts? Mr. Rowan, I hope you will not consider me as answering questions that have not been put to me, or that in answering them I have done more than discharge a solemn duty.

Mr. ROWAN—Have you ever offered any suggestion that I did not attend to?

Mr. HIGGIN—Certainly, in anything connected with the Establishment, such as attending to any suggestion from me about a prisoner in confinement, or some such matter, you have always paid great attention to my wishes. In one or two matters of mere personal convenience, you have not acceded to my wishes. Independently of your expressed sentiments, that it is the duty of officers here to obey rules and not to question their propriety, I was placed, by this rule, in very peculiar circumstances. As Protestant chaplain, I should do nothing that might be construed into a motive on my part of a wish to spare my own exertions, by throwing duty from my own shoulders; you neither, Mr. Rowan, thought it my duty to interfere in this rule, nor did you ever ask my own opinion upon it; indeed I feel personally obliged to Mr. Rowan, for not consulting me on the subject if he did not consult Mr. O'Donovan.

Mr. ROWAN—I knew the embarrassment, Mr. Higgin, in which such a consultation would place you, and therefore did not consult you.

Mr. HIGGIN—I have always observed Mr. Rowan impartial in his conduct to the prisoners.

Mr. DOLAN—Will you, sir (to Mr. Townsend), let it appear on your notes that Mr. Rowan never consulted the chaplains upon this rule?

Mr. ROWAN—I have stated that I never consulted them on any rule.

Mr. DOLAN—Why, you consulted Mr. Donovan when you were about to make a change in the diet at one time.

Mr. ROWAN—Aye, indeed, but it was an act of courtesy to that side.

Mr. O'DONOVAN—I protested here, in this office against this rule.

Mr. ROWAN—Never in your life—I will take my oath of it.

Mr. O'DONOVAN—I say I did, and you said you would suspend me; there is, at this moment, an officer in the room who will prove that I remonstrated with you.

Mr. TOWNSEND—If he (Mr. Rowan) chooses after such a declaration, he can examine that officer.

Mr. ROWAN (to Mr. O'Donovan) You are not now to add to your evidence.

Mr. HIGGIN—As I have stated the motives of conversion here, I wish to state that I have attributed the sincere conversions to Protestantism, to the reading of the Scriptures, and to mutual conversation between the prisoners.

From the necessity of cross-examining the Rev. Mr. Higgin at great length, and the hour being now advanced, it was arranged that the cross-examination should not be proceeded on until to-morrow.

Mr. ROWAN proceeded to read several reports just delivered by the officers, regarding the riotous conduct of the Catholics at present. Mr. Rowan descanted at great length upon the turbulence of the Catholics, and concluded by asserting that they always became more riotous when their chaplain left them.

The COURT adjourned.

Defence—Sixteenth Day—October 15.

The COURT met at the usual hour.

Mr. TOWNSEND said, that he thought it right to inform the Gentlemen for the prosecution, that, on consideration, Miss Taggart would reply to the question which she refused to answer on Wednesday.

Mr. DOLAN—Under the circumstances in which Miss Taggart left this Court, I cannot cross-examine her; I must say, that I cannot reconcile her conduct with the solemn oath she had taken. She was sworn to tell the whole truth, and she did not adhere to that obligation.

Mr. TOWNSEND—I spoke to Miss Freeman and Mr. Higgin on the subject, and told them of the impropriety of Miss Taggart judging for herself, and how opposed to the due administration of justice such conduct on her part was, and I dare say Mr. Higgin remonstrated with her.

Mr. HIGGIN—I spoke to Miss Taggart, and pointed out to her the impropriety of acting as she had done, and she instantly agreed.

Mr. TOWNSEND—Gentlemen, I think it right to say, that I will call Miss Taggart, and examine her on the point you wished to interrogate her, if you should desire ?

Mr. DOLAN—I have already, sir, stated my determination.

Rev. Mr. Higgin.

Mr. TOWNSEND—There are two or three questions which we wish to ask Mr. Higgin before the cross-examination commences.

Do you know was the rule of the first probation week suggested by the governor ?—I fancy it was.

Whoever suggested it, do you think, on fairly considering the subject, he expected that it would produce the effect mentioned by you ?—It would greatly depend on the character of the individual; from the character of the governor of this place, from the best opinion I am able to form, I do not think he was aware of the effects. I yesterday stated that I had a latent conviction some time ago as to the probation being the cause of the changes, but I wish it to be understood, that until the issuing of this Inquiry, and turning over facts in my own mind, I could not speak so decisively as I did yesterday.

On first hearing of the rule, it did not strike you as being improper ?—Oh! yes, it did ; I thought it would have the effect ; it was not to my mind.

From your particularly mentioning that rule, in answer to the question I asked you originally, I think it right to say, that if that question had not brought out the answer, another would. I would have asked the other witnesses here—how do you account for the

number of conversions, from your mentioning that rule so prominently, you may convey to us that there is no other rule tending to the same effect?—I do not know of any other; I ought to state with regard to the other, the second probation, that is, the first probation in point of time of formation, but the second, in its mode of action upon the individual, that the rule was made by mutual consent.

Mr. Townsend—Oh! yes, I think it a very good rule that no one should be allowed to change his Religion lightly, or without due consideration.

Witness—I always understood that the second probation was a kind of mutual understanding between Mr. O'Donovan, myself, and the governor. It was, I think, mentioned at a meeting, where we three were present, and agreed to it.

Mr. O'Donovan—I certainly never agreed to it.

Mr. Higgin—Well, I understood it so; if I had not that impression of the rule, I would never have acted upon it as I have done; acting under that rule, I have always felt it my duty, as Protestant Chaplain, to repair to and impart Protestant instruction to all those wishing to leave my flock.

Mr. Townsend—Mr. Higgin, some of those who declared themselves at first to be Protestants afterwards became Catholics, and some of them who did so, become Protestants again; have you any idea of the reason?—I really cannot allege any other reason than that they have seen the difference between the two, as to the celebration of Divine Service, and have made their choice.

Mr. Townsend—I have no other questions now to ask—Mr. Rowan you can now ask Mr. Higgin any questions you please.

Mr. Rowan—For reasons, maturely considered, I am not going to ask Mr. Higgin any questions. I shall only examine him to authenticate some letters. I will show very easily that it has always been the anxious care of the governor to keep controversial tracts and books out of the Institution. (Mr. R. here proceeded to read some letters in reply from Mr. Higgin to him—one of them referred to a search made for tracts.)

Mr. Townsend—There is no occasion to offer any proof about the tract affair.

Mr. Rowan—I certainly think, sir, it is very material to show the part I took in the transaction. Mr. R. read the following note:—

"Dear Sir, "13*th January*, 1826.

"In answer to your note of this evening, inquiring of me whether I have seen, or in any respect authorised the circulation of "tracts among the Roman Catholic convicts in this Establishment, "tending to bring into disrepute the Roman Catholic Religion. I "have to inform you, that I cannot charge my memory with one "single instance of ever seeing such books either in the hands of "Roman Catholics, or in any respect exposed to their view. Some "months ago, when I was much questioned by my flock as to the

" difference between the Church of England and of Rome, I dis-
" tributed only amongst the Protestants a very few of the enclosed
" tract, with a strict injunction that they should keep it to them-
" selves. In doing this, I do not conceive that I, in any measure,
" violate that strict neutrality on the subject of Religion, which I
" think ought to be preserved in the Penitentiary, for you will per-
" ceive, by the enclosed catechism, which contains all the peculiar
" doctrines of the Church of Rome, that its distribution amongst
" the Roman Catholics, might as justly be said to be an attack on
" the Protestant Religion, inasmuch as it endeavours to prove by
" it the doctrines of Purgatory, Mass, &c. and thereby coming into
" the hands of Protestants, might lead astray the unwary and mis-
" informed. As, however, you express some degree of hesitation
" as to the tract in question, whether it might not be productive of
" evil, I am free to confess, that having maturely considered the
" subject, to cut off all occasion of offence, I determined in my
" own mind to impart such instruction orally, instead of the mode
" which would certainly save me considerable trouble, and request-
" ed Mr. Wood to bring me the tracts I had distributed. You
" are well aware of the peculiar responsibility of my situation, and
" I am sure will agree with me that if I am convinced that the Pro-
" testant Religion is right, it is my bounden duty to caution my
" flock against what I conceive the dangerous errors of the Ro-
" man Catholic Religion. In doing this, I have always endea-
" voured to act with the strictest impartiality towards the Roman
" Catholics, and I will venture to affirm, that there is not a Roman
" Catholic in the Penitentiary who will dare to say, that I have
" either directly or indirectly used any inducement towards alienat-
" ing him from the Roman Catholic Religion.

" I have only to add, that Miss Freeman having mentioned to
" me the subject this morning, I immediately examined the whole
" of the Penitentiary, and in no one instance have I found in the
" hands of either Roman Catholics or Protestants, one controversial
" tract. As it is my wish to live upon the best terms with Mr.
" O'Donovan, I should be glad if, by interview with yourself or
" otherwise, so unfounded an impression might be removed, and I
" really think he ought, by this time, to know me too well, to ima-
" gine for one moment that I would, in any respect, interfere with
" his flock.

" I am, dear sir, truly yours,
" W. HIGGIN."

Mr. HIGGIN—The note read is in reply to one from the governor to me, which I have in my pocket; it is of the same date. Here is the note :—

" *Richmond General Penitentiary, 13th January,* 1826.

" MY DEAR SIR,

" The matron has represented to me that Mr. O'Donovan com-
" plains of tracts of a controversial nature having been distributed

" amongst the Roman Catholic convicts, with the object of turning " his Religion into disrespute. From the anxiety with which I " have attempted to guard against any bickerings, or disputes on " religious subjects in this Establishment, and the attention I have " bestowed to the books which have been used, I cannot believe " that such works could have escaped my notice. Mr. Algeo and " Miss Freeman, who have injunctions to watch narrowly and report " strictly on such subjects, concur in stating, that they have not " seen such works, as those alluded to, in the hands of the convicts. " As I feel anxious that no just cause should exist for such an im- " putation, I request you will take the trouble to inform me, " whether you have seen any such work with the prisoners, or " whether you could, at any time, inadvertently have authorised the " circulation of such tracts, as those in question.

" I remain, my dear sir, truly yours,

" HILL W. ROWAN.

" Rev. Mr. Higgin."

Mr. ROWAN—This is another note from Mr. Higgin, dated 16th January. I have no copy of the letter to which it is a reply :—

" DEAR SIR,

" In answer to your note of Saturday evening, I have to inform " you, that the number of Testaments and Prayer Books, which I " lately received, are as follow :—

" Testaments, 16—Prayer Books, 16.

" Testaments, 8—Prayer Books, 7.

" *Saturday.*

" Yesterday, I made a still more diligent search into the dormi- " tories of the prisoners, and found the two inclosed books. How " they came there, I cannot tell. I likewise found a very improper " book, the ' Sorrows of Werter,' and was informed that it belonged " to Mr. Keppel, late warder in the Penitentiary. However, the " discovery of these books suggests the propriety of having occa- " sionally the cells examined. I have all along been in the habit of " inspecting, and this frequently, the books in the school-room ; " but if it meets your approbation, I will, occasionally, say once a " quarter, go through all the dormitories, and make a thorough " search.

" Yours, dear sir, very truly,

" W. HIGGIN.

" 16*th January* 1826.

" P. S.—I have ascertained that the tract being a controversy " between the Methodists and Roman Catholics, was in the posses- " sion of Thomas Smith in Mr. Green's division. I have questioned " him on the subject, and he assures me he met with it acci- " dentally in the range, that it was not given to him by any one ; " and that no Protestant has ever put any controversial work into " his hands. You will excuse the trouble I am giving you, but I

" think it right to put you into full possession of all the circum-
" stances connected with the subject."

Mr. HIGGIN—With regard to the tract, I must say what I before said. I had misgivings as to the propriety of circulating it, and I withdrew it. When I distributed the tract, I charged the officers to keep a watch, so as to prevent it falling into the hands of any but Protestants. By the note it would appear that I withdrew the tract at the request of the governor, but such is not the fact. I withdrew it myself a month or six weeks before, in compliance with my own feelings on the subject. I have really removed books that were allowable here. I have removed even Dr. Stopford's catechism, and the books on the list of the Society for the Suppression of Vice, which are approved of by the Prelates and Archbishops of the Established Church. I mention this, as it would justify me even if I had circulated them.

Mr. ROWAN—I now hand in a note, dated Feb. 23d, 1826, in order to show that books were taken, as a punishment here, from Protestants as well as Catholics. This letter is important in another point of view. Smyth, who was on evidence here, had a difference with Moriarty; I investigated it, and I punished Moriarty. I have since learned that it was a deep and malignant plot to injure Moriarty. Mr. Higgin is aware of that. I will not ask Mr. Higgin any question, sir.

Mr. Higgin cross-examined by Mr. Dolan through the Rev. Mr. O'Donovan—Do you recollect at what time the consent was given with regard to the second probation?—The only thing I recollect is our meeting, accidentally, in this room; it was at an early period after the governor came here.

Did Mr. Rowan ever tell you that he consulted Mr. O'Donovan on the first or entrance probation?—No, he never did.

Mr. ROWAN—I have already stated, that I consulted neither one nor the other, I would not consult one without consulting the other.

Did Mr. Rowan ever tell you, that I remonstrated after the rule was made?—No, he never did.

Mr. HIGGIN, you have already stated that the great majority of prisoners coming in, declare to be Protestants, you have already mentioned that the changes of Religion were limited to three; do you think taking these facts together, that the regulation has contributed to the increase of proselytism?—I think I have already answered that.

Mr. TOWNSEND—No, not exactly, you are required to state your opinion as to the concurrent operation of these facts, having an additional effect in making Protestants; does that rule which makes the *first* choice the same as the *third*, make a number of the people Protestants who might wish to become Catholics?—Yes, I think it may have that effect.

Do you not conceive that the fact of the governor expressing

himself, in the hearing of the prisoners, to be a Protestant, and expressing his conviction of the truth of his Religion, has the effect of making Protestants?—I can scarcely answer that, for I have no facts within my knowledge.

Did you hear Mr. Rowan make the admission here?—Yes, but there is the context to be taken with the text, for he said at the same time, he would show no partiality.

Mr. TOWNSEND—Yes, Mr. Rowan avowed that at one time, under circumstances that made him fear he would be considered partial to the Catholics, he said "do not however think I am indifferent to my own faith."

Do you think it would have any effect further than that?—Taking into account the relative situation of the parties—the circumstance of his being governor here, and considering the respectability of his situation, I think his persuasions would have more effect than those of another.

Do you think that the fact of Protestants getting their Religious books gratuitously, and Catholics being obliged to pay for them, has had any effect?—I cannot say.

Mr. TOWNSEND—I think religion would sit very loose on them if it did.

Rev. Mr. O'DONOVAN—Oh sir, I don't know that; it is not the *price* of the books I complain of, but the principle of partial and gratuitous distribution.

Witness—In my mind the difference of the price of the books is so trifling that it scarcely has an operation on their minds, for the others get Testaments.

Mr. DOLAN—Having stated that the entrance week originated with the governor, and that it had the effect of making proselytes, what was the object of instituting it?—I do not know, if it was not for the purpose of seclusion.

What was the object of seclusion?—I really cannot say, I never spoke a word to the governor on the subject, I have already stated why I was silent; the reason why I think Mr. Rowan did not institute it for proselytising is, that I think he is too sensible a man, to institute it with a view to proselytise.

Do you think the appointment of a Catholic schoolmaster would have the effect of preventing proselytes?—From everything I have seen of the conduct of Mr. Wood, the schoolmaster, I do not think it would make any difference. I do not think it would make any difference; my injunctions to him were very strict, and from all I saw, he observed them; I mean by injunctions, the directions I gave him.

Did he receive instructions from the governor?—I dare say when he was admitted into the Institution he may have received instructions, but I was not privy to them. I do not think of Mr. Wood that he would proselytize if he could—he would see no use in it.

Have you the same opinion of Miss Taggart?

Mr. ROWAN (interrupting) I beg now to ask is this a fair kind of cross examination, that the Protestant chaplain of this Institution is to be asked the character of every individual officer in the Establishment, from the governor down; I never in my life saw any thing like it.

Mr. TOWNSEND—If Mr. Higgin object to the question it shall not be put.

Witness—Why, I would rather not answer such a question; I certainly have my own opinions, but they may be erroneous.

Mr. TOWNSEND—The rule in legal practice is this – if evidence be given of a good character, evidence may be called to prove a bad character; that is the only way that I have known the opinion of a witness with regard to an individual to be taken, unless it was wanting to be shown that an individual was unworthy of credit on his oath.

Mr. ROWAN—The plan is to put me on my trial on the speculative opinions of Mr. Higgin. The examination is directed against me.

Mr. TOWNSEND—Not at all, it applies as much to all the officers here.

Mr. DOLAN—The opinion of so respectable a witness as Mr. Higgin, must have some weight here, for his opinion must be derived from observation.

Mr. TOWNSEND—I certainly think the questions as to the characters of the officers, is not a fair one.

Mr. DOLAN—Well, then, we will not press it; but allow me to ask does the question involve an imputation against the character; is it not rather applying to the fitness of the individual to be an officer here. We interrogate merely as to their having strong sectarian prejudices.

Mr. TOWNSEND—I certainly think sectarian prejudices to be an imputation against a man's character, in some degree.

Mr. ROWAN—Particularly where we are all sectarians in the opinion of the Catholics!

Mr. TOWNSEND—Why, we are all sectarians, but I trust we are all of the same body of Christians, although under different denominations.

Rev. Mr. O'DONOVAN—Just so, sir.

Witness—I trust any answer that my oath may compel me to give may not be taken as disrespectful from me to any officer here.

Mr. DOLAN—(to the Court)—May I inquire have you made a rule with regard to the question respecting Miss Taggart?

Mr. TOWNSEND—Yes; I do not think you can ask Mr. Higgin about Miss Taggart—Ask herself.

Mr. DOLAN—No, no—she has already refused to answer—(to witness)—What was the mode of ascertaining the Religion before the Institution of the probation?

Witness—Why, I fancy—

Mr. ROWAN—He fancies.

Witness —No, I am sure—I have seen the book several times in which their Religion was entered on their coming in; it was kept by Mr. Crofton.

Mr. ROWAN—Surely you cannot be certain of the authenticity of that book.

Mr. TOWNSEND—Ah! for pity's sake, Mr. Rowan, let us have no fencing. I in——

Mr. ROWAN—Why you know, sir, there has been no evidence of the fact of the book being ever in existence.

Mr. TOWNSEND—Sure he has seen the book, Mr. Rowan. Mr. Higgin cannot give evidence of the book; but the party can call for the book, and if it be not produced, they can give secondary evidence of its contents.

Mr. DOLAN—Mr. Rowan, will you produce the book?

Mr. ROWAN—It is not my intention to produce any book to the parties.

Mr. DOLAN—Mr. Higgin, what was the substance of the entries you have seen in that book?—It stated the age, and other particulars of the prisoner, and prefixed to his name, the Religion to which he belonged.

Did that entry import to be made the day he came in?—I think it did.

Who were the officers that, as you stated yesterday, applied to know "how far they might go with the Catholics?"—I may have stated it awkardly, but certainly in their own words. I meant that they asked how they should conduct themselves with the Catholics. Mrs. Roberts and Mr. Somerville were the officers.

Mr. ROWAN—There is a very great distinction between your memory and your words—Why I used the words, because from the manner in which those individuals asked me the question, I thought I might have discerned a spark of anxiety about them.

Mr. DOLAN—Aye, a spark of anxiety. Is Mr. Somerville here now, Mr. Higgin?—He is. I don't think my last expression, "spark of anxiety," should apply to Mrs. Roberts, although she consulted me; it is besides, quite a matter of opinion.

Mr. DOLAN—I dare say, they said as much as they would venture to say to you.

Mr. ROWAN—I dare say the distinction is very nicely drawn by Mr. Higgin.

Did you ever visit Walsh in the cage?—I did not.

Mr. DOLAN—I do not think I shall trouble Mr. Higgin with any more questions. We feel much obliged to Mr. Higgin for the honourable manner in which the Reverend Gentleman has given his testimony.

Mr. HIGGIN—Allow me to say, that although I am so unfortunate as to differ with the governor on one rule, no one approves more than I do, generally, of his rules. There is no one who has

considered Mr. Rowan's attention to the dietary, clothing, and health of the individuals placed under his care, who will not draw conclusions highly favourable to his character.

Mr. TOWNSEND—Are the rules strictly observed?—I think they are.

Mr. TOWNSEND—With respect to the warders, are they strictly obeyed?—As far as my observation goes, they are. Perhaps I may be permitted to make another observation. It might appear unkind of me not to have mentioned before this, my dislike to the probation rule; but although I had, from the first, a dislike to the rule, I felt that I was not in a situation to resist a regulation deliberately adopted by the governor; and my mind was not properly matured on the subject; latterly my mind has been drawn to it.

Mr. ROWAN—Your opinions have arisen out of this Inquiry?—No; my opinions have been formed from consideration, independently of any matter I have heard on this Inquiry.

Witness withdrew.

Mr. DOLAN—There is a letter inserted on the minutes, addressed by Dr. Quarry, of Cork, to Mr. Rowan. I never consented that that letter should be inserted.

Mr. TOWNSEND—I recollect something about the letter from Dr. Quarry. If I do not forget, it was said at the time it was produced, that it might be read in evidence, as it might, by possibility become evidence.

Mr. DOLAN—It is one thing to read a letter under such circumstances, and another to have it inserted on the minutes.

Mr. TOWNSEND—According to my recollection, Mr. O'Donovan allowed the letter to be read; and if it be read, I think it followed that it should go on the minutes, for any one of us could prove the handwriting of Dr. Quarry.

Mr. DOLAN—I submit that Dr. Quarry should be produced instead of his letter being read.

The following is a copy:—

"*Cork, April* 26, 1827.

"DEAR SIR,

"I have been requested this day by a man named John Connell, "recently discharged from the Richmond Penitentiary, to inform "you of his safe arrival in Cork with his wife. He begs you will "have the kindnes to remit to me for him, by the first opportunity, "or in such way as you may think fit, some money of his in the "Dublin Savings' Bank. He supposes the amount to be £1 15s.10d. "He says you and he have agreed upon the following 'token,' that "he drew seven notes.

"Both Connell and his wife express much gratitude to you and "the respectable matron of the Penitentiary, for your humane "treatment of them while under your care; and have charged me

to convey this gratifying communication to you; and also to inform "you, that they are on their way to visit Mr. Hollingsworth at "Cove.

"I remain, dear sir, yours faithfully,
"JOHN QUARRY.

"To H. W. Rowan, Esq."

Mr. TOWNSEND—Well, Mr. Dolan, you may now, if you please, examine Miss Taggart. She did, through unacquaintance with the rules of a Court, refuse to answer a question put to her; but she sees her impropriety, and she now comes forward willingly. We will certainly take her reply to the question.

Mr. DOLAN—I have consulted with Mr. O'Dwyer, and his opinion strengthens me in mine—we have both concurred in deciding, that after what occurred on her last appearance here, it would be improper of us to examine her.

Mr. ROWAN—I may be allowed to say, that I have never interfered with Miss Taggart on the subject; nor influenced her as to the evidence she was to give here. I think her to be a most upright and conscientious young woman; and I am sure would hold her word as sacred as her oath.

Mr. TOWNSEND—Well, gentlemen, have you made up your mind?

Mr. DOLAN—Yes, sir; we could not, in justice to our cause, examine the lady.

Mr. TOWNSEND—Well, we will examine her.

Miss Taggart here came forward.

Mr. TOWNSEND—Are you disposed to answer the question to which you refused a reply on the day of your last examination?

Miss TAGGART—The moment I went out of the Court that day, I felt a conviction that I had done wrong, arising from my ignorance of the forms of a Court. I had no intention of offering any disrespect to any member of the Court.

Mr. TOWNSEND—Oh! we do not suppose you had. Are you disposed now to answer the question?—Yes; I am now willing to answer any and every question that the Commissioners or any other gentleman may put to me.

Mr. TOWNSEND—I will repeat the questions you were asked on Wednesday, when you refused to answer—"What was the conversation you had respecting the evidence you were to give here?" I said that I hoped I would not be asked all those questions that had been asked of Mr. Algeo with respect to his religious opinions; that I had seen them give rise to a great deal of unpleasantness. I said that I had told Mr. Townsend that I was a member of the Church of England, and that I really was a member, and that I did not think he had a right to ask me any further questions on the subject. That is the substance of the conversation; there was nothing more on the subject.

Mr. TOWNSEND—If the gentlemen choose, I will ask any other question?

Mr. DOLAN—I will not interfere, sir.

Witness—From the first moment that my own examination commenced, I have never seen the governor unless in this room; nor have I had any communication with him whatever. In acting as I have done, I acted in opposition to the advice I received.

Witness withdrew.

At this stage of the proceedings Mr. Dolan was compelled by professional engagements elsewhere to retire.

Mr. O'DWYER begged to know what was to be done with regard to the speech or statement which Mr. Rowan had made at the commencement of his defence. The Inquiry was now about to close, and it was rather extraordinary that the statement which was in process of recitation for many days, and which Mr. Rowan had pledged himself to give in before this, had not been furnished. It should be conceded that if the statement, which was a series of allegations and arguments, were not placed upon the minutes, the public time had been trifled with.

Mr. ROWAN replied, that he did not consider the accusing party had any right whatsoever to a copy of the statement which they required. The proceedings of this commission were analogous to the proceedings of Courts Martial, and in such courts the practice was opposed to the claims now made.

Mr. TOWNSEND said, that he did not consider there was any analogy between the Commission and a Court Martial, unless in the circumstance of Counsel not being allowed to speak.

Mr. ROWAN said, he entirely objected to the right of the opposite party to reply, and that if that party were allowed a duplicate of the statement, they should not be permitted to reply.

Mr. O'DWYER protested against such arguments, and expressed his opinion that the refusal of Mr. Rowan to place on record his statement, which was permitted to occupy the time of the Commissioners for several days, was not entirely in keeping with good faith. It would be very material for the prosecutors to repudiate as they were enabled to do by evidence, the allegations made by Mr. Rowan in his statement; and it would in no small degree serve their case to exhibit the variations between Mr. Rowan's written statement and the evidence he adduced to support it. If the practice of Courts of Law were to be abided by, it was quite plain that the prosecution had now a right to give in a statement or review of the evidence elicited in the Inquiry in the nature of a speech to evidence.

Mr. TOWNSEND said, that the present opinion of the Commissioners was to hear no speech at all, but to finish when Mr. Rowan had given in his documents.

Mr. ROWAN again referred to the practice of Courts Martial, and said, that he had a right to place his statement on the minutes, and that the opposite party had no right to reply to it.

Mr. TOWNSEND conceived that one party should not be allowed to do that which another party was not permitted to do.

Mr. O'DWYER declared he could not see why such frequent allusions were made to the practice of Courts Martial, even if Mr. Rowan were correct in his statement of the practice of such Courts. This Institution was a Civil Establishment, and amenable to Civil Regulations, and not at all designed to be a military depot. It was clearly a breach of the understanding which existed to refuse to supply the introductory statement which Mr. Rowan had made. If Mr. Rowan's plan were now acted upon, in point of fact, he (the accused) would have the speech to evidence, for he could alter his statement as he pleased, and expunge those parts of it which were not subsequently sustained by evidence.

Mr. ROWAN here proceeded to hand in several reports and letters, amongst others the following letter, dated August 25th, but no year was mentioned. (The object of handing them in appeared to be a proof of the detention of prisoners from Mass when they came into the Institution, arising from illness).

"DEAR SIR,

"Catherine M'Donough, Bridget Brenan, Sarah Donnelly, and "Mary Gallagher, Patrick Ratigan and John Shaughnessy, have "slight symptoms of itch.

"Francis Heavy is severely affected with asthma, and will pro-"bably become a burthen to this Establishment.

"Yours truly,

"C. H. TODD.

"*25th August.*"

Mr. TOWNSEND inquired, when did Bridget Brenan come in?

Mr. ROWAN replied, that she came in on the 18th of August, 1824.

Mr. TOWNSEND observed, that she must have come in 1824, as Doctor Orpen came here in 1825.

Mr. O'DWYER objected to this kind of proof, and required the books of the house should be produced to prove the fact.

Mr. TOWNSEND here inquired of Mr. Algeo and the Rev. Mr. O'Donovan, whether they could state when the woman alluded to came to the Penitentiary?

Mr. O'DONOVAN declared he could not. Mr. Algeo declared also in the negative.

Mr. O'DWYER said, that it was very extraordinary that the person who kept the committal book, should not be examined to prove the fact. Surely Mr. Rowan need not fear the cross examination to which that person would be subject. (it appeared on reference to her own evidence that she had come in here in 1824.

Mr. ROWAN handed in a report from Surgeon Todd in reference to Mary Brady.

Mr. TOWNSEND said, that he really could not see why that port should be produced, the name of that woman did not at all.

Mr. O'Dwyer wished that the commissioners should inspect the document; it was valuable to prove, as it did by the commencement of it, "Dear Rowan," that the feeling described by Doctor Orpen did not exist between Surgeon Todd and Mr. Rowan, and that therefore his disapprobation of certain acts done here was unprejudiced.

Mr. Rowan next gave in a report dated September 9, 1824, of which the following is a copy:—

"Dear Sir,

"Mary Connell, Rose M'Carthy, William Connell and John "Lynch are slightly affected with itch.

"Michael Toole and Peter Daly have slight venereal affections, "I have thought it necessary to remove the former to the Hos- "pital, but Daly's complaint requires local treatment only.

"Yours truly,

"C. H. TODD,

"September 9, 1824."

Mr. Rowan handed in some letters which did not admit of any proof of their authenticity. They were read, but not entered on the minutes. Mr. R. read the following letters:—

"*Kildare-street, August* 8, 1824.

"Dear Sir.

"The water with which the Richmond Penitentiary is supplied, "contains much vegetable matter and other impurities, at the same "time I cannot attribute the local complaints with which some of "the prisoners have been affected to the use of it.

"The House of Industry is supplied with water from the same "source, and it has been observed, that diseases of the bowels "are more than usually prevalent amongst the inmates of that "Institution.

"During the present season of the year, all persons are more "or less liable to cholera morbus, dysentery, &c. such affections "have not assumed an alarming character in the Penitentiary, "either in respect of *severity* or of the numbers complaining; "indeed, the judicious alteration which you have lately effected in "the dietary of the prison, must have considerable influence in "counteracting any predisposition to those diseases, and rendering "them mild when they do occur.

"I have the honor to be, sir,

"Your obedient servant,

"C. H. TODD.

"H. W. Rowan, Esq. Governor, &c."

"*Dublin Castle, 26th September*, 1820.

"Sir,

"I have received and submitted to the Lord Lieutenant, your "letter of the 25th inst. representing, that the Rev. Mr. Higgin,

" Chaplain to the Richmond General Penitentiary, is desirous of " permission to purchase the Scriptures and other Religious Books, " to promote the Religion and moral instruction of the prisoners " who are found to be willing to read them, which will be obtained " at the cheapest rate, and nothing admitted but what is approved " by the Established Church, or the Society for Promoting Chris- " tian Knowledge; also, that he is desirous to be provided with a " Surplice—and I am to signify to you his Excellency's approba- " tion of the Books and Surplice being provided, which you are " to charge in your quarterly account.

" I have the honor to be, sir,
" Your most obedient humble servant,
" CHARLES GRANT.

" Samuel Holingsworth, Esq.
" Richmond General Penitentiary."

" *Richmond General Penitentiary*, 3*d February*, 1823.

" DEAR SIR,

" I was so much occupied when I met you for a moment this " morning in giving directions to Mr. Mallet, on the subject of the " iron grate he is constructing, that I omitted to mention to you " my intention of sending the officers to attend the convicts for the " future, during divine service, in the Roman Catholic Chapel— " I find, (what indeed I have long since learned from yourself) that " the prisoners, as might have been expected, have been guilty of " various improprieties during service, which it is not practicable " for you to prevent; I make no doubt that my present arrange- " ment will ensure perfect subordination.

" I am, dear sir, yours truly,
" H. W. ROWAN.

" Rev. Mr. O'Donovan."

Mr. ROWAN next handed in the following letter:—

" *Richmond General Penitentiary*, 25th *October*, 1823.

" DEAR SIR,

" I would be glad that you should see Jane Armstrong in the " morning—she attempted this day to strangle herself, because she " was confined to her bed, (in common with the other convicts of " her division) for the purpose of discovering which of them had " stolen some articles of wearing apparel. I should also wish to see " you on Monday morning, relative to the book which you put into " my hands some time ago, as well as respecting another book " which I detected with some of the women this week.

" Dear sir, truly yours,
" HILL W. ROWAN.

" Rev. Mr. O'Donovan."

Mr. O'DWYER said, that the book alluded to was the catechism on

which the hall-porter, who was, up to the present period, an officer of the Institution, had written some improper words, and he took that opportunity of saying, that a man capable of outraging Religion by such indecency, should not have been suffered to continue in his situation. Such lenity was an incitement to ill behaviour and disrespect to the Catholics.

Mr. ROWAN replied, that at the time he heard of the matter, he expressed his disapprobation of such conduct.

Mr. O'DWYER did not deny that Mr. Rowan had expressed some disapprobation; but he complained that the offence was not punished by the marked dismissal of the man, who still continued as hall porter.

Mr. ROWAN said he would merely observe, that the occurrence happened six years since, and two years previously to his hearing of it. Mr. R. next handed in the following letters:—

"*Richmond General Penitentiary, 24th December*, 1823.

"DEAR SIR,

"I am glad to find, by your note of this evening, that you are "so much better. I have given directions, according to your wish, "that the Roman Catholic convicts shall be ready to attend in the "morning; but I write this to express my uneasiness, lest you "should have undertaken more than you are able to perform, and "to state my impression, that it is very imprudent of you, immedi- "ately after meeting with an accident so severe, to venture from "home. I advise you to re-consider the matter, and not to think "of leaving your home without permission from your medical ad- "viser. It was my intention to have called on you (not anticipat- "ing your rapid recovery) to mention that there are four of your "flock have announced their wish to be permitted to attend the "Protestant Chapel, and to embrace the Protestant faith. I have "so recently stated to you and to Mr. Higgin my views and inten- "tions under such circumstances as these, that it is unnecessary "for me now to repeat them. It gave me much pleasure to find that "you and he so fully concurred in my sentiments, that those who "wish to change should be permitted to do so, with the option of "returning again to their own Church, if, after due examination, "they wished it. The persons to whom I now allude, and whose "names I will mention when I have the pleasure of seeing you, "sent to Mr. Higgin to intimate their wishes and determinations, "and Mr. Higgin declined to visit them unless in my presence, "lest he should be supposed to have influenced their opinions. I "stated to the individuals who expressed a desire to change, those "sentiments with which you are already acquainted, and told them "that though I would not allow any attempt at proselytism, any in- "dividuals should be permitted to embrace the Religion which con- "science prompted them to consider the best, and although they "are anxious to attend the Protestant Chapel immediately, I could "not allow them to do so, in consequence of your being confined

" by indisposition, but I told them they shall have an opportunity
" to make their election when you are able to attend, as I am
" anxious to show you every degree of courtesy and attention, on
" a subject, respecting which, I am sure, you will feel interest.

" I am, my dear sir, truly yours,

" HILL W. ROWAN.

" Rev. J. M. O'Donovan,
" Grange Gorman Lane."

" *Richmond General Penitentiary*, 19*th October*, 1825.

" My Dear Sir,

" I have wished for an opportunity for some time past, to com-
" municate with you confidentially on one or two matters connected
" with this Establishment, but as I find *that* opportunity not likely
" to present itself, I embrace this method of noticing them—first,
" premising that if I was of a jealous disposition, I would have had
" some reason to complain that I have never once had the plea-
" sure of seeing you since before my trip to England last summer.
" I should regret extremely to believe that this arose out of any un-
" kind feelings towards me, as I am unconscious of having given
" cause for them. I trust it is my disposition, and I am sure it is
" my desire to live on terms of perfect cordiality with Christian Mi-
" nisters of all persuasions, and it is certain, that the interests of this
" Institution require that the best understanding should at all
" times subsist between its governor and chaplains. I have learned,
" with pain, from the matron (I cannot say *officially*, as I am not
" certain that she was directed to make the communication) of
" your being under an impression that improper attempts have been
" made by some persons of this Establishment, to induce individu-
" als of your communion to abandon their faith and become mem-
" bers of the Established Church. From the friendly and confiden-
" tial communications we have frequently had on this subject, as
" well as from the hearty concurrence of opinion expressed by Mr.
" Higgin and yourself, when the regulations, having reference to
" it, were formed, I cannot believe it is of those regulations you
" complain, (more especially as every day's experience convinces
" me of their propriety) much less can I suppose that you impute
" to me any intentional infraction of them; I must, therefore, pre-
" sume, you have reason to *know* that attempts of the kind alluded
" to have been made by persons under my control. If *facts* of this
" kind are within your knowledge, I shall feel very much obliged
" by your putting me in possession of them, in order that I may
" lose no time in instituting a proper inquiry on the subject; if, on
" the other hand, the impression attributed to you, result *merely*
" *from surmise*, I am sure your good sense and good feeling will
" (on reflection) induce you to abstain from any observations which
" might, by possibility, create hostile feelings among professing
" Christians, of whatever religious persuasions they may be. Should

" you feel yourself prepared to offer *facts* to my notice (as justify-
" ing your impression) I shall feel happy to have an additional op-
" portunity of evincing my anxiety to forward the views of Govern-
" ment, by administering the most impartial justice to all persua-
" sions of professing Christians, who may be placed under my ma-
" nagement and control. It has also been intimated to me that
" you hold it in contemplation to preach to your flock next Sun-
" day, in the Irish language, under an idea that many of the Ro-
" man Catholics of this Establishment do not understand English
" I beg to assure you, and I think no one can have better opportu-
" nities of judging than myself, that you are under a mistake on
" this subject, as there are but two, or, perhaps, three persons in
" the Penitentiary who do not perfectly understand the English
" language, and to those persons you can have an opportunity of
" addressing yourself whenever it may suit your convenience. It
" never has hitherto been the practice to preach in Irish in the
" Chapel of this Institution, and as I think (independently of its
" not being required) it would imply a reason for Government to
" presume that persons had been selected as fit subjects for moral
" and religious instruction here, with whom neither the governor
" nor any of the other officers of the Establishment could hold com-
" munion unless by chance acquainted with the Irish language. I
" feel obliged to request that you will not deviate from the practice
" hitherto pursued.

" I am, my dear sir, very truly yours,
" HILL W. ROWAN.

" To the Rev. J. M. O'Donovan,
" &c. &c. &c."

Mr. ROWAN offered fourteen letters, alleged to be written by several Catholic prisoners after they had been discharged from this Institution, and which he considered beneficial to his case. He was advised that they should be received *valeat quantum*. He (Mr. R.) declared his willingness to swear, that they bear the post mark of the town in which they were written for this occasion.

Mr. TOWNSEND could not at all admit such a proceeding. Mr. Rowan however should have all the benefit that he could derive from an entry on the minutes of their having been tendered and refused.

Mr. ROWAN said he was advised by Serjeant Blackburn, that he had a right to their reception as evidence.

Mr. TOWNSEND repeated, that his opinion was different. However, if Mr. Rowan pleased, he might give the letters to the Crown Solicitor, who would insert them as an appendix, with a remark, that they had been refused.

Mr. ROWAN, after some dissent, agreed to this.

Mr. O'DWYER begged leave, with the greatest possible respect, to say, that he thought such a permission as that just given would be most injurious, and not in accordance with legal practice. He could not say whether his Excellency the Lord Lieutenant, would

form his decision upon the report of the Commissioners, which would be a digest of the evidence obtained here, or whether his Excellency would, for his own satisfaction, read through the evidence from the notes taken by the Crown Solicitor. But it was quite plain, that when Mr. Rowan agreed to placing those letters in the Appendix; he hoped to obtain, by placing them there, some advantage; and it was equally manifest, that on grounds of justice, he should obtain no advantage by them, for they were unproved documents. The prosecutors would readily prove, if the Commissioners pleased, that the persons from whom some of those letters came, never knew how to write!

Mr. TOWNSEND—The letters shall only be inserted in the Appendix, with a remark that Mr. Rowan wished their insertion.

Mr. O'DWYER continued to press his objection, but without effect.

Mr. ROWAN read a letter addressed by the governor of the House of Correction at Preston, to the Rev. Mr. Nixon, Inspector of Kilmainham, regarding the helmet or iron head-piece, and describing its use in that establishment, where, according to the letter, it was still applied.

Mr. TOWNSEND said, that he did not think that letter necessary. The Lord Lieutenant, if his Excellency pleased, might refer to the practice of prisons, as described in the Parliamentary papers, as being analogous.

Mr. O'DWYER suggested, that, as reasoning from analogy was admitted, his Excellency might derive some valuable assistance from the practice of Kilmainham prison, as deposed to by Mr. Allison on his cross-examination.

Mr. Rowan handed in several letters, of which the following are duplicates:—

"*Richmond General Penitentiary, January* 17, 1824.

"DEAR SIR,

"I had not leisure when I last saw you, to mention that Johnston, "who has, I believe, for a considerable length of time, attended "your Chapel, has announced his determination to return to the "Protestant Church, of which, I understand, he was originally a "member. I have been this day informed, that one of the female "convicts has expressed the same determination. I intend in the "morning to state to her, as I have already done to Johnston, my "regulations, and to allow her to make her choice as to which "Chapel she wishes to attend. I was also anxious to have had an op-"portunity of speaking to you, respecting some observations which "it has been reported to me (from various quarters) you made to "your flock during divine service, I think on last Sunday week, "relative to those inviduals *who have become* members of the "Established Church. I trust, my dear sir, you feel persuaded of my "unwillingness to interfere in any degree with the discipline of your "Church, and of my anxiety to cultivate the best understanding "with the Chaplains of this Establishment. But I put it to your

" good sense and liberality, whether it is judicious (I am unwilling " to use stronger language) in you, to cast imputations on, or to " make use of menaces against the officers of this Institution, " which may compel me, upon any serious representation of the " thing, to interfere in such a manner as would be very painful to " my feelings. You must be aware, that it is an implied imputation " against the governor of this Establishment, that efforts are made " by the officers to proselyte, which it has become necessary for " you to attempt to check *(and that, without ever having intimated " to me even your own suspicion on the subject)* by threatening the " individuals falling under these suspicions, with punishment. You " must be aware that they *are responsible to the governor* alone for " their conduct in the Penitentiary; and that it is his anxious " desire to have that conduct regulated by principles of the strictest " propriety. I feel assured that you will receive these obser- " vations in the same spirit with which they have been written by

" Dear sir,

" Very faithfully yours,

" HILL WILSON ROWAN.

" The Rev. J. M. O'Donovan,
" Grange Gorman Lane."

13, *Grange Gorman Lane, Feb.* 22, 1824.

" DEAR SIR,

" I would long before now have replied to your letter of the 17th " ultimo, but being unable to write, in consequence of straining my " dislocated arm at night in my sleep, which since has proved to me " more painful almost than the fracture itself. Dear sir, I appre- " hend that the observations, alluded to in your letter, that I have " made use of to my flock on the 4th of January, must have been " greatly misrepresented to you, as the Religion of the Established " Church had not been at all mentioned, nor any member thereof. " The expressions made use of consisted merely of an exhortation, " and admonition in a religious manner, to those of my communion, " and by no means whatsoever interfering with the Religion of my " Rev. Brother Colleague, or with the order or government of the " Institution; which expressions and observations fortunately I " have preserved, as written by me the night before, and which I " will produce now if requisite, before all that had been present on " the occasion. Moreover, I deny having cast any imputation upon " any officer in the Institution, or even asserted that any efforts " were made by officers to proselytise, or having made use of " *threats or punishments.* It would be absurd to think so when you " are fully aware that I have no such power. Even maimed as I " have been, I waited upon you, personally, to have the subject of " the above observations explained. Believe, dear sir, that you

" shall always find me congenial to your feelings in co-operating " with you in your government of the Institution ; and also with " every officer in the Establishment, to bring about the grand object " of Government, *i. e.* the reformation of the unfortunate and de- " luded transgressors of the laws of their country, whom we may " have from time to time, under our parental care.

" I remain, dear sir,

" Your most obedient humble servant,

" JOHN M. O'DONOVAN.

" To Hill W. Rowan, Esq."

" DEAR SIR,

" I have had a conversation with John Walsh to-day, and I am " happy to find the opinion I have formed respecting him, con- " firmed by his own acknowledgement—he stated to me that he " not only despised himself for being deluded by Stapleton, but " that he feels that in having allowed himself to entertain any " harsh opinion of your government of the Penitentiary, he has " broken the spirit of that command which says, ' Thou shalt love " thy neighbour."—He assures me that Moran has not been in " the slightest degree accessary to what has happened, and begged " of me to state, that whatever punishment might be awarded, he " hoped it might be of a negative kind, such as debarring him from " his liberty, by prolonging the usual period of confinement, as " he should be sorry it was known through the house, that he had " been guilty of such misconduct.

" What do you think of there being an expectation entertained " the other day that *two Counsellors* were coming to settle all " matters of dispute between yourself and the Roman Catholic " Chaplain, I cannot devise how such matters came to be can- " vassed in the building, it is most injurious to the prisoners.

" Yours dear sir, very faithfully,

" W. HIGGIN.

" January 23d. 1826."

" *Richmond General Penitentiary, 20th February*, 1826.

" DEAR SIR,

" Moriarty, I understand is again in a scrape, he sent for me " yesterday, and his object was, that I should let you know that " Mr. Wood can prove, that from time to time, he (Moriarty) has " communicated with him, respecting the matter before you—I do " not rightly understand the business, but I am afraid Moriarty " has been again doubling himself in his wiles. The last time I " saw Kelly he requested me to ask you for his books, I do not " think that in his present state of mind, he ought to have them.

" Martin, junior, preferred the same request, and without you " have some decided objection, I am disposed to imagine that they " may prove beneficial; he appears to me truly humbled, and if " I was not assured that your judgment is much better than my " own, I would solicit for him another trial; there have been " characters quite as hopeless reclaimed in the Penitentiary, and " as I cannot but think he was much injured by Rozen, I have a " latent hope, that he may be recovered; from our late accession " to the Church, we are much in want of Prayer Books and Tes- " taments; I am going to-morrow on private business to Watson's, " and will order a dozen of each, if it meets your approval.

" Yours, dear sir,

" W. HIGGIN."

" My Dear Sir,

" I enclose you my report relative to Williamson, and, at the " same time, I beg leave to return you my best thanks for your " very kind letter of this morning.

" I shall call at the Penitentiary at half-past three o'clock in " the hope of seeing you, and of assuring you that I shall do all " in my power to meet your wishes, and to co-operate in your ex- " cellent arrangements.

" I remain, my dear sir,

" faithfully yours,

" C. H. TODD.

" *Wednesday.*"

" *Richmond General Penitentiary*, 3d *July*, 1823.

" Dear Sir,

" I hope you will be able to call on me this day, at 12 o'clock, " relative to those prisoners of whom I write to you, some of " whom are very pressing to be allowed to go to Church, and I " wish to let them make their choice before to-morrow. I am " very unequal myself to any exertion, as I have been confined " with rheumatism in my head.

" Very truly yours,

" H. W. ROWAN.

" Rev. J. M. O'Donovan."

" Dear Sir,

" I had, inadvertently (according to the wish expressed in your " note of this day) given directions to have Service in the Roman " Catholic Chapel to-morrow morning, but it has since occurred " to me that it will not be in my power to make that arrangement,

" as it would interfere with the daily service in the Protestant " Chapel, which is precisely at the hour of eight o'clock in the " morning, and to transfer it to any other hour would clash with " all the other business of the day. I am very glad to find you are " getting better, and beg to know on what early day you can " give me a call, relative to those individuals who wish to leave " your Church, as some of them are very impatient to have my " permission to go to the Protestant Chapel.

" I am, my dear sir,
" Faithfully yours,
" H. W. ROWAN.

" Rev. Mr. O'Donovan,
" 31st December, 1823."

Mr. TOWNSEND at this period of the business intimated that the Inquiry was now at an end.

Mr. O'DWYER inquired if, according to the understanding, the Commissoners would not go through the Penitentiary to examine the prisoners?

Mr. TOWNSEND said, that he was not then decided, but he thought it was not unlikely that he and the Inspectors General would go through the prison. However, he would consult Mr. Goulburn, and upon the opinion of Government it would rest, whether they would go through the prison, unaccompanied by the parties, or with their attendance.

Mr. O'DWYER declared his surprise that the understanding between the parties should be violated. He (Mr. O'D.) had looked forward to the examination of the prisoners with great anxiety, and many of them would have been produced as witnesses but for the conviction in the mind of the prosecuting party that the opportunity would be given of questioning them when the Inquiry had closed.

The Inquiry then terminated.

APPENDIX.

EXTRACTS FROM PUBLICATIONS REFERRED TO IN THE EVIDENCE.

[A.]

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THE DIFFERENCES BETWEEN PROTESTANTISM AND POPERY BRIEFLY STATED.

Showing the beauties of the one and the absurdities of the other, suited to the meanest capacity, and earnestly recommended to be committed to memory by all persons of the Protestant Religion, as a means of protecting them from the crafty devices of the Romish Church; a Church without, what we Protestants can properly call, a Religion, and now using every artifice to lead away the unwary Protestant from his faith, or lull him into INDIFFERENCE under the false name of LIBERALITY. Let him then be ready always (as St. Peter directs him) to "*give an answer to every man that asketh him a reason of the hope that is in him.*"—1 Peter iii. 15.

QUESTION.—What do you call yourself?

ANSWER.—A Protestant.

Q. What is a Protestant?

A. A person who protests against Popery.

Q. What is Popery?

A. The Religion of the Church of Rome, the Members of which are called Roman Catholics, or Papists from their connexion with the Pope of Rome.

Q. What is it to protest against Popery?

A. Solemnly to declare my disapprobation of the doctrines of Popery, as not being according to godliness.

Q. Why do you protest against the doctrine of POPERY, and why do you believe in those of the PROTESTANT RELIGION?

A. Because I cannot find the doctrines of Popery in the Sacred Scriptures, while those of the Protestant Religion are all founded on the truths revealed in the Old and New Testaments.

(Nine Protests against the Church of Rome foollw.)

is doing for the dying person, which is, they know not how, to benefit his soul, and help him forward towards heaven. Yet so great is their ignorance, and so strange the inconsistencies of the priests' doctrines, that though, in Extreme Unction, they give a final pardon, and are paid for it, yet this final pardon will not free the soul from Purgatory; it must go thither notwithstanding, and remain there until more money is paid for prayers and masses to bring it out.

The great evil of this, and indeed of all the Popish errors is, that the minds of the people are turned away from the true grounds of hope toward God, and they are led to think, that money paid for certain ceremonies, will ensure them whatever they can require. It is in vain to say that money has nothing to do with the efficacy of the rite, for it is well known, that the poorest wretch would part with his last shilling to insure his anointing, and would be terrified and alarmed, were a charitable Priest to refuse taking the money from him.

[C.]

Page 35.

PURGATORY.

"The Protestant Church unanimously rejects Purgatory. 1st. Because it is a new doctrine, established by Pope Eugenius the Fourth, in the Council of Florence, about the year 1430: it was rejected at all times by the Greek Church; and, according to the confession of some Roman Catholic writers, it was not unanimously received in the Church of Rome. 2nd. Because it is a doctrine evidently intended to bring money to the Priests, as may be seen from the establishment of the Dublin Purgatorian Society; but lastly, and chiefly, they reject it, because it opposes the Scriptures; by making light of sin, calling some transgressions of God's law venial; by taking away from the infinite merit of the Saviour's atonement, in sayiug that he only made satisfaction for mortal sins, and left the sinner to suffer for his venial ones; and, by contradicting the great truths of the New Testament, that "the blood of Jesus Christ cleanseth from all sin; and that there is now no condemnation to them that are in Christ Jesus." While, therefore, the Church of Rome supports this doctrine, which is evidently borrowed from the heathen nations, by perverting the word of God, by bringing in passages from books never generally received as canonical, and, by making an unscriptural distinction between mortal and venial sin; the Protestants, who take their Religion from the canonical Scriptures alone, believe, and teach, "that the Romish doctrine of Purgatory is a foolish thing, vainly invented, and grounded upon no warrant of Scripture, but rather repugnant to the word of God."—22nd Article of the Church of England."

[D.]

Page 35.

THE PROTESTANT'S REASON FOR NOT WORSHIPPING SAINTS AND IMAGES.

"When the Protestant refuses to worship Saints and Images, it is because that he thinks that the veneration paid to them in the Church of Rome, *cannot be excused from the charge of idolatry:* although the doctors and learned men of that Church have used all their endeavours to represent their doctrines on this subject in the most harmless and inoffensive light. Now, if we can show, that this veneration *is idolatry*, we certainly have a good excuse for not praying to Saints, and bowing before their images or pictures."

[E.]

Page 36.

A SHORT DEFENCE OF THE OLD RELIGION, &c.

The Compiler of this Report has not been able to procure a Copy of the above Work, which is the same mentioned, under another name, in a different part of the evidence. The writer, Mr. Ouseley, is a Preacher of the Methodist Society. From inquiry, the Compiler has learned, that the work is extremely virulent, and false in its exposition of Catholic doctrines.

[F.]

Page 36.

THE GOOD CATHOLIC, OR, *THE HONEST FARMER.*

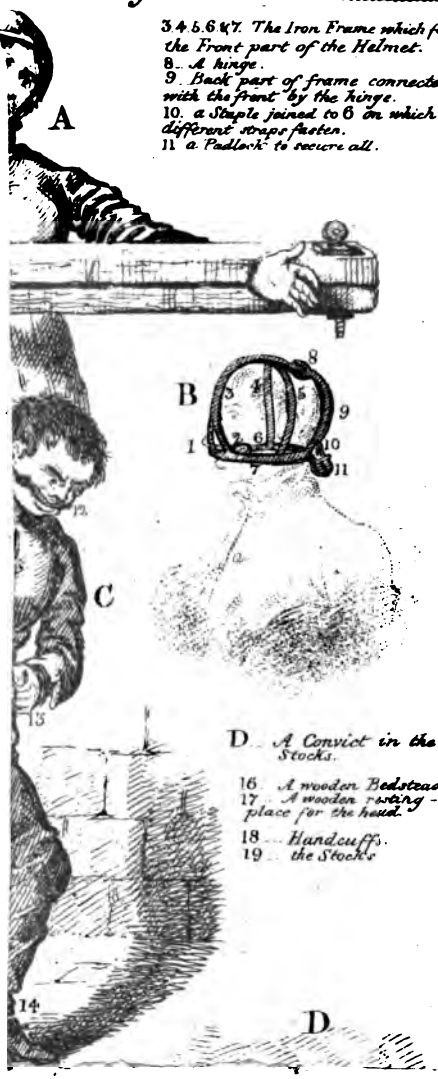
"What nonsense you're talking, Peter, and frightening yourself and every body else, with your saying, "it's a sin to do this, and a sin to do that;" why if a body was to mind you, we must give up every bit of sport and become as moping as yourself.

No such thing, John, said Peter, you need'nt give up nothing that is innocent, so you need'nt; and as for moping, why none of you is half so happy as I am with all my moping, as you call it.

Well then, if you *are* so happy as you say, said John, why can't you let others be so too, and not keep frightening them by always talking to them about their sins? Arn't we good Catholics as well as you? Don't we go to Mass and Confession? Arn't we attentive to our duties? Don't we keep our fasts, and feasts, and do all that our clergy bids us? And don't we get absolution when we are dying? So what more do you want? And if we *do* take a sup now and then, and have a bit of fun, what's the harm in that? Or if any harm does, an odd time, come of it, *must'nt*

N. B.—Besides the modes of Punishment descr
the other side, there are some references to oth
in the course of the Proceedings, of which it
found inconvenient to give a description.

ishment *Referred to in the Evidence.*


A
B
C
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12
13
14
3 4 5 6 & 7. The Iron Frame which forms the Front part of the Helmet.
8. A hinge.
9. Back part of frame connected with the front by the hinge.
10. a Staple joined to 6 on which the different straps fasten.
11. a Padlock to secure all.
D. A Convict in the Stocks.
16. A wooden Bedstead
17. A wooden resting-place for the head.
18. Handcuffs.
19. the Stocks

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we do penance for it; and then arn't we *as well as we were before?* So, come, let us have no more of *your preaching;* I'll get absolution as well as you, and then I'm as safe as yourself.

Well John, if you won't hear me, says Peter, I can't help it; but I am sorry for you, for you're all in the wrong, so you are.

How's that, says John?

Why, because you may do all that you say you do, and get all that you speak of, and yet never get to heaven after all. I'll tell you what it is, John, if a man won't give up his heart and soul to God *while he's alive,* God won't take his soul into heaven *when he's dead.* What's the good of doing penance for one score of sins, unless a man sincerely in his heart, and in good earnest, resolves and strives never to do the like again; and unless he prays to God, through Jesus Christ, to enable him to keep his good resolutions and never to begin another score? And what is the good of getting absolution, when a man thinks he is dying, when, if he recovers, he will be just the same again? Do you think that God will be mocked in that way, or that he will forgive you your sins, because *whenever you are frightened,* you're very sorry for them, and promise to do them no more? No, no, John, that will never do; and all the absolution that you can get in this way, and at those times, will never do you a bit of good. It's while you are stout and well, *that's* the time to give those things; and the harder you find it to give them up, the more necessary is it to be done.

Why to be sure, all that seems very fair, said John, but then nobody will be saved if that be the case; so I'll never believe it, because we all know that every good Catholic is sure to be saved.

(Between the good Catholic and the honest Farmer, much conversation took place on the occasion of their meeting, during which Peter explained at considerable length, the errors of Popery. They separated and the following extract relates to a second interview:)

A smiling morning to you, said John to Peter.

Good morrow kindly, answered Peter, and I'm glad to see you so soon again.

I've another question to ask you, said John. If that be so that Jesus Christ has made full satisfaction; where's the use of putting one's soul in purgatory to make more satisfaction?

Aye, indeed, said Peter, your question is a fair one enough, but as this is a thing which the Pope and Cardinals have settled some hundred years ago at some of their councils; and as there is nothing at all about it in the word of God, it's a thing that I never talk about, and I'm quite certain that no true believer (such as we all must be, or we can never get to heaven) who is washed and purged in the blood of Jesus Christ, will ever stand in need of any other purifying or purgatory than that; and if a man is not washed and purified in the blood of Jesus Christ before he dies, and has nothing but his own penances and the fire of this purgatory to trust to for satisfaction, he's a lost man, says I—For how can those save him if the blood of Jesus did not?

Well now, said John, there is another question that I want to ask you, what do you think of receiving the holy Sacrament?

Think of it, said Peter, why if a man receives it in the right way, and for a right motive, to be sure he is receiving grace to his own soul; but then if he receives it wrong, he is doing a most dangerous thing.

I don't think you make enough of receiving the very body and blood of Jesus Christ, said John.

There again, said Peter, is the mistake that ruins thousands. They think that the wafer is Christ's body, blood, bones and divinity; but what is more absurd than this? We see and feel, and taste that what we get is bread; and we are to be told that this is flesh and blood, and bones and divinity! And sure you can't think that that wafer is the God that made you? And did'nt Christ say that his body, after he rose and went to heaven, must remain there till the end of the world. Acts iii. 21? And did'nt he make Thomas feel his body when he did'nt believe? John xx. 27. which shows that we may take the evidence of our senses.

But, said John, did'nt Christ say that we must eat his flesh and drink his blood.

And sure enough we must, or we have no life in us, said Peter; but then that means that we must do it spiritually and by faith. For when our Lord said that, he was living and walking about; and sure they could'nt then eat his flesh, and drink his blood that flowed in his veins. And if they could have no life without that, then they must have all perished and no fault of their's; for they could'nt eat our Lord's flesh and drink his blood, and he living and walking among them. And then these words of our Lord could'nt refer to the Sacrament for it was'nt appointed till long after this.

I certainly see, said John, a difference, as clear as day light, between those ways of receiving the Sacrament that you have been telling me of.

It's the same thing with saying one's prayers. The true believer, said Peter, is always striving to avoid sin, and as he finds himself so weak and ill inclined he constantly prays to God for help, in his dear Son's name; and as soon as Jesus Christ sends him the help he asked for, which, according to his promise, he never fails to do *in his own good time*, then the believer having obtained the thing which he wished for so much, is full of joy and thankfulness; and so far from expecting a reward for asking for a thing which he wanted himself, that he will be most ready to acknowledge it to be the free gift of God, and will be most grateful to God for it. This is to pray from a right motive, for it is first to desire sincerely to return to God with the whole heart—2dly, to desire his help to enable us to do so—and 3dly, having got it, to endeavour with all our might, and in dependence upon his grace to serve him. It is a very different thing with too many of us, John, who think it a very necessary thing, and a piece of duty, to say over a certain number of prayers every day, without caring whether we pray from our hearts or not, or whether we ever get what we ask for or not; and as soon as we have said them over, think ourselves clear and free to go through whatever lies before us for the rest of the day. And hen the saying of the same prayers over so often, so many pater

nosters and ave marias, and other prayers, all said as fast as a man can gabble them over, what are they but downright mockery? Suppose you wanted a little time from the landlord, would you go to him and say, please your honor, I want a month's time to pay my rent; please your honor, I want a month's time to pay my rent; and so on, saying the same thing over and over, for I don't know how many dozen times, as quickly as ever you could? Or if you did, would'nt he think you were either mad or mocking him? And don't you think, John, it is a great affront to God to mock him in such a way as this? And the more so, as our Saviour himself, in the 7th verse of the 6th chapter of St. Matthew, bids us, when we are praying, "not to use vain repetitions as the Heathens do," for, says he, "they think that they shall be heard for their much speaking."

Well, sure enough, there's truth in that, said John.

It is the same with giving alms to the poor, answered Peter; a true believer always pities every one whom he sees in distress, and takes great pleasure in giving him all the help he can afford; but when he has been able to do so, he does not think that he deserves any thing from God, but he thinks, on the contrary, that it is God who deserves his best thanks for having given him, first, the opportunity of being of use to the poor man whom he pitieth so much; and 2ndly, for having given him the good will.

If that be the case, said John, I doubt if there be many who give charity right.

Not a doubt of that, said Peter, but remember, if you are living in a state of sin, if you have not turned to God with your whole heart, all the alms that you can give, or all that you can do, of what you may think good works, if done in the hopes of making satisfaction for sins, or of making you appear in the least more acceptable in the sight of God, are only fresh sins, because they show that you think that your sins may be made satisfaction for, and your soul saved by something else besides the blood of the blessed Jesus.

John was here obliged to take his leave, and as he went away, he could not but remark in his mind, that Peter spoke these words most heartily from his own experience; and could not help offering a prayer to God from his heart, that he might be enabled to believe on the Saviour whom Peter trusted, and to live as he did—and be in heaven along with him throughout eternity."

[G.]

TRANSUBSTANTIATION

CONDEMNED BY THE FATHERS OF THE CHURCH.

(This publication differs little from the usual works of the Established Church on this doctrine. The following quotation prefixed to it, sufficiently indicates its character:)

"When we call the fruit of the earth Ceres, and wine Bacchus,

we use the common language, but do you think any man so mad as to believe that which he eats to be God?"—TULLY.

[H. I.]

Page 36.

THINK WELL ON'T. FIFTY REASONS.

It is unnecessary to give any extracts from these publications, as they are, it appears, much in use amongst Roman Catholics, and are approved by the Roman Catholic Clergy.

Page 54.

TRACTS REFERRED TO AS BEING CIRCULATED IN THE PENITENTIARY.

THE HISTORY OF ANDREW DUNN.

CHAP. I.

(Andrew's doubts, and first conversation with Father Dominick; his getting of a Testament, and the use he made of it.)

"Andrew Dunn was educated a Roman Catholic, and continued until he was about forty years of age, like his neighbours, taking for granted that every thing his clergy told him was true. He was a shrewd sensible man; but his sagacity until this time, had been exercised merely in the affairs of this world. About the age of forty he began to consider the importance of religion, and his own ignorance upon the subject, and he determined to inquire about a matter upon which the salvation of his soul depended. Accordingly he went to Father Dominick, the Priest of his parish, and told him that he wished to have a little conversation with him. "Well, Andrew," said he, "what have you to say to me?" "Why, please your Reverence, I have been thinking for some time back, that, though I strike a bargain well enough with a neighbour, I am nearly as ignorant about Religion as a horse or a cow; and this I do not think becoming in a Christian. Will your Reverence be so kind as to put me in the way of getting some knowledge in this matter?" "Why," answered he, "Andrew, I never missed you at confession nor at Mass, and you are a very honest fellow; what more do you want than this?" "Why, then, Sir, to tell you the truth, if any one was to ask me, why I am a member of the Catholic Church, I could not tell him, unless I was to say, that my father was so before me; and this, with submission, I think a very foolish reason." "But, don't you know, Andrew," replied Father Dominick, "that you belong to the *Holy Mother Church*, and that there is no other true Church, and that all who do not belong to her communion are

heretics, and will certainly be damned?" "I have often," said Andrew, "heard your Reverence say as much in the Chapel; but, with submission, may I make bold to ask your Reverence, how you know all this?" "Andrew, you are the first of my flock, who ever dared to ask me such a question, and I do not understand such liberties! However, your question is easily answered; I know it, because the Church says so." &c. &c."

(A rich Lady makes Andrew a present of a Testament, which he read with great devotion and profit to his soul.)

"The story proceeds—I may here mention, that Andrew had a family, consisting of a wife, a son, and two daughters; his son about eighteen, and his daughters, seventeen and sixteen. It was impossible that he could conceal entirely from them the feelings of his mind; and they would often ask him the cause of his concern. At first, he used to put them off with some evasive answer; but, upon their growing more inquisitive and importunate, he would say: "O my dear wife and children, there is much more in Religion than any of us have been aware of. The Testament tells me I am a sinner, and this is what makes me uneasy." Andrew was much loved by his family, who at first thought that he was a little beside himself, and were greatly frightened; but, upon seeing that he appeared quite rational in every other respect, they endeavoured to comfort him, by saying, "That though, to be sure, he was a sinner, as who was not? yet he was as honest a man as any of his neighbours, had a good heart, and never missed his duties." "Poor comfort," cried Andrew, "poor medicine for a wounded conscience! If you have no better consolation for me than this, O spare me the pain of hearing what only inflicts a deeper wound! Can you tell me how I shall get rid of my sins?" "Aye, to be sure," cried his wife; "go, my dear, to Father Dominick, and confess to him, and he will give you absolution in the twinkling of an eye." "Give me absolution!" replied Andrew, heaving a sigh; "this might do in the days of my ignorance; but I require a different kind of absolution now. God only, my dear, can forgive sins; and Father Dominick has no more power to forgive sins than *you* or *I*." His family was startled at the boldness of his assertion, and began to bless themselves, lest they should be polluted by what they thought downright blasphemy; "I repeat it," cried Andrew, "he has no more power to forgive sins, than you or I." His family had often heard him utter dreadful oaths, without any emotions of horror; they had heard him call for damnation upon his own soul, and upon the souls of others, a hundred times, and this without being, in the least disturbed; but when they heard him question the authority of Father Dominick, and his right to forgive sins, they took the alarm, and they stopped their ears, that they might hear no more of such offensive language. In this manner poor Andrew, for a considerable time, had fightings without, and fears within.

Matters went on in this way for some time; and it was now

more than a year since Andrew had his first conversation with Father Dominick; during which period, by applying all his spare time to the study of the Testament, he had made himself a pretty good master of it, and was able by the grace of God, "to give to every man that asked him, a reason of the hope that was in him, with meekness and fear." In the mean time Father Dominick had called, to know what kept him from confession and Mass. At first, he wanted courage to own the truth, and avoided giving a direct answer; but he afterwards began to consider, that he need not be ashamed of what he had been taught by the Word of God, and that it was his duty openly to avow his conviction of his former errors. He resolved, therefore, that the next time Father Dominick called, he would speak to him plainly on the subject, and having acquitted his conscience before God, patiently abide all consequences.

Soon after this, Father Dominick called upon Andrew, and sharply upbraided him with his neglect of duty. He used some very harsh and provoking language, and showed a disposition to treat poor Andrew more like a dog than a man. But *he* had been in the school of Christ, and had learned to be "*meek* and *lowly* in heart," and therefore, though his superstitious fear of the priest was entirely removed, yet he felt no inclination to use opprobrious language, but gently expostulated with him on his unbecoming warmth. "Aye," said Father Dominick, "I guessed this would be the consequence of your inquisitive spirit. You have learned it seems, to despise your clergy, and you are no longer afraid of penance. I expected no better from your presumption, in taking upon you to read the Testament. If I had you in *Spain* or *Portugal*, I could soon set matters to right, by clapping you into the Inquisition, and make you pay well for your presumption in disputing the authority of your clergy. But in this country, that vile *principle* of 'liberty of conscience' is so much in vogue, that every man may think for himself, and our power stands on the most slender footing. "Without intending to shew any disrespect to you, Sir," replied Andrew, "I cannot help expressing my thanks to God, that I live in a country where every man may judge for himself; nor do I think it much to the credit of any religion, that torture must be employed to keep men steady to it." This observation, so just in itself, and made with so much mildness, provoked Father Dominick to the highest pitch; so that he forgot his character, as a professed Minister of the Prince of Peace, and, raising up his hand, which held the whip, for he was on horseback, he threatened Andrew with immediate chastisement if he dared to speak any more in that way. Andrew, who since he had read the Testament, knew what a Minister of the Gospel should be, was greatly shocked to behold such extravagance, and remained silent for a minute, until he perceived by the gradual return of his arm to its former position, that the priest was a little cooled. He then addressed him as follows:—Do you think, Sir, by such a

conduct as this to recommend the religion of which you are a minister? Or do you expect to bring me back by such arguments as these? If you do, you are indeed much mistaken. A conviction that I *was* wrong, has produced the change in me, which seems to give you so much offence; and nothing, I hope, but more convincing reasons, on the other side, will bring me back again. If you expect to do anything with me, come into my house, and set before me your reasons; if I find them satisfactory, I trust you will not find me obstinate."

Father Dominick began, as he cooled, to feel a little ashamed of his conduct; and when he contrasted his own indecent warmth with the mildness of Andrew, he was so much humbled in his own eyes, that he had a mind at first to ride off, and leave him entirely to his fate. However, he said within himself, "If I go away, and refuse to debate the point with him, he will have a great triumph over me, and will tell all his neighbours that he foiled the Priest; and he may thereby bring me into contempt with the rest of the people. Besides, he is a poor ignorant fellow, and I shall have no difficulty, if I can't convince him, in putting him to silence." He thought too, that, by consenting to such a proposal, he would wipe off the disgrace of his former rashness, and give an evidence of his condescension and humility. Under the influence of these reflections he resolved to go in; and dismounting, he tied his horse at the door, and took his seat by a fire within. Andrew sat down by him, and all the family drew nigh to hear a conversation which promised to be so interesting."

CHAP. III.

(Andrew's long conversation with Father Dominick, and what happened at the end of it.)

"Is it not," said Father Dominick, beginning the dialogue, "a strange piece of presumption in such a man as you are, to venture on a dispute about religion with one like me, who can read and write latin, and has been brought up to those things?"

Andrew.—"What's every man's concern, Sir, must be simple in itself. If I want to measure a piece of cloth, and have no yard to measure it with, I must take it by guess, or on the report of another; but if I have a yard, I apply it to the cloth, and it does not require much education to know how much there is in it." &c. &c. &c.

(Father Dominick and Andrew discourse about various ceremonies of the Catholic Church. The subjoined part of their dialogue relates to a disputation on the REAL PRESENCE.*)*

Father Dominick told him, he was an impudent censorious fellow, and, as no good Christian could doubt the Real Presence, he bid him pass on to the next objection.

Andrew—"You tell your flock, Sir, that you have a right to require of them to confess their sins in your ear, and to put penance upon them, and then to give them absolution."

Father D.—"To be sure we do; what good Christian ever doubted it?"

Andrew—"I should thank you, Sir, to show me any thing in the Testament which supports this pretension."

Father D.—"I can do it very easily. 'Whose soever sins ye remit, they are remitted unto them; and whose soever sins ye retain, they are retained,' John xx. 23. What do you say to that?"

Andrew—"Are you sure, Sir, that you understand those words rightly? And can you believe, that, by authority of this word, every parish priest may require his flock to confess, appoint them penance, and give them absolution? Take Father L. of the parish of N. a man who was found more than once lying drunk upon the road; or take Father M. of the parish of O. a man who is an unchaste liver; will you maintain that such men can give absolution to the sinner? No, Sir, be well assured that such men, (though priests,) if they remain impenitent, will be cast into the lake that burneth with fire and brimstone."

CHAP. IV.

(The introduction of worship into Andrew's family. Their escape from fire. An account of James Nowlan's wicked design against Andrew, and the happy issue of that matter.)

"That night, Andrew had an opportunity of observing the kindness of God in the preservation of those who put their trust in him. He thought he perceived some smoke in the house; and, upon examination, found that some fire had got into a heap of straw that lay in a corner, and that the straw had nearly taken fire. Andrew quietly stopped the progress of the mischief, and uttering an ejaculation of grateful acknowledgment to the Author of all good, for his kind interference, returned to his bed, and said nothing of the incident to any of his family until the morning. When the family was assembled, according to his desire, he told them what had happened, pointing out to them the danger to which they had been exposed; hence he took an opportunity of extolling the goodness of that God which had watched over him and his family, and, by a providential interference, had prevented the mischief which threatened them. Not long before, Andrew would have considered all this as the effect of *accident*; but now he saw the hand of God in everything, and acknowledged his care with thankfulness.

When Father Dominick excommunicated Andrew and his family, he talked a good deal about heresy, and insinuated, pretty plainly, that to hurt a heretic, was an offence of no great magnitude; indeed, if I am rightly informed, he represented such an act as somewhat meritorious. Now it happened, that there was in the congregation, one James Nowlan, who owed Andrew a grudge, on account of a preference of a piece of ground which he held, and who would have had no objection, if a favourable oppor-

tunity occurred, to make him pay dearly for his advantage. Nowlan, upon hearing Andrew pronounced a heretic, and roundly cursed by the Priest, said within himself, "Now is my time to take my revenge upon Andrew Dunn. Father Dominick says, that a heretic ought to be considered as a heathen man and a publican, that is, I suppose, like the Devil himself; that if he was in Spain or Portugal, he would be burned to death, as an enemy to the Church; but that in this country, it is contrary to law, plague on such laws! to burn heretics. Now, if Andrew Dunn deserves to be burned, and that nothing hinders it but bad laws, there can be no harm, but a great deal of good, in my giving Andrew Dunn a sound flogging, that he will remember as long as he lives, aye, and longer too; this will be doing God service, and the more so, as I run the chance myself of suffering by the *cruelty* of those laws that will not allow good men to punish wicked heretics as they deserve."

CHAP. V.

(James Nowlan's family become religious. Others join Andrew. Account of a man taken with a fever. Father Dominick's death. James Nowlan's happy departure.)

"James Nowlan having, (*through the ministry of Andrew*), himself found "the pearl of great price," was anxious that his family should be possessed of an interest in the blessing. Accordingly he begged that they would accompany him, at the usual hour, to Andrew's house. They all of them showed a great reluctance, and for some days absolutely refused. "A pretty thing indeed," said they, "to go and pray with such a fellow, when Father Dominick told us, that the Devil himself was not a worse companion." Without entering into farther particulars, I shall just mention, that James Nowlan's family soon began to feel the power of true religion, and showed the change, by turning from their sins, and leading a new life; this, of course, was matter of much encouragement and thankfulness to Andrew. For some time, these two families alone dared to be singular; to turn from their sins, and to worship God, in a spiritual way; setting aside the idle forms and unmeaning ceremonies in which they had been educated. Others were afraid on account of Father Dominick's curse, to join them; and they were exposed to much ridicule and opposition on account of their adherence to the Scriptures. However, after the first impressions, occasioned by the Priest's denunciations, had a little worn away, some began to reflect upon the great change which had taken place in the lives both of Andrew Dunn and James Nowlan, and particularly the latter. They could not help observing too, the order of their families, their kind and gracious manner one to another, so different from what they saw in other families; they were struck also with the improvement in their outward circumstances. They supposed, from what Father Dominick had said, that God

would, by some signal providence, (such as destroying his house, or blasting his crop,) show his displeasure against Andrew, on account of his heresy. But instead of that, Andrew was thriving in his worldly circumstances, more than any of his neighbours in his own line of life. Nor was this to be wondered at.—True religion, proved to him the source of temporal profit, as well as of eternal benefit; for his wife and children now became as active and industrious as they were before lazy and idle; and the time which was before spent in doing nothing, or in diversion, was now devoted to some useful occupation.

About this time, Andrew got an account that Father Dominick was dying. He had been struck by the palsy, and his state was such, that a second stroke was every hour expected, which, it was supposed, would put an end to his life. Andrew, after many struggles, resolved that he would go and see him. Accordingly he went to his house, and knocked at the door. When it was known who it was that was there, the people informed the dying man of it; supposing that Andrew was come to ask forgiveness of Father Dominick before he died. Andrew was admitted, and was much shocked to see the state in which Father Dominick was. When he saw Andrew, he cried out, "Oh, Andrew! I am a dying man, but this is not the worst of it; I am afraid my soul is lost for ever!" "Say not so, Sir," answered Andrew, with much emotion, "while the Word of God says, *that the blood of Christ cleanseth from all sin.*" "Oh, Andrew! had I attended to your faithful reproof on the day when we talked together at your cabin, I might have done well. You told me that the care of souls was an awful charge; I now feel it to be so; I have a dreadful account to give in at the bar of God for the loss of souls ruined by my neglect or ignorance. Oh, is is a fearful thing to fall into the hands of the living God!" His voice faultered, as he uttered these words, and the second attack of his compaint came on, which immediately deprived him of all sensibility, and in a few hours of life itself.

I shall conclude my narrative with an account of the happy departure of James Nowlan, which did not, however, happen for two years after this time. One evening, as Andrew was sitting with his family, an account was brought him, that James Nowlan was very ill, and wished to see him. He obeyed the summons without the least delay, and upon entering his sick friend's house, was addressed by him as follows: "Andrew, I feel myself very ill; but my soul is full of comfort. I do not know whether this sickness is unto death, but my Redeemer knows, and that's enough for me, &c. &c. &c. After remaining silent for some time, he cried out, with more strength than it was thought he was capable of exerting, "Hallelujah! blessing, and honour, and glory, be unto the Lamb for ever!" These were the last words he spoke; but the heavenly smile upon his countenance showed to all around what was the state of his mind; and the expressive manner in which he would lift up his eyes and hands to heaven, when he could no longer

speak, were sufficient indications that his mental faculties were still in exercise, and that his triumph over death was complete. In a few hours his happy spirit was translated to the paradise of God. "May we die the death of the righteous, and may our last end be like his!" Numbers, xxiii. 10.

Precious Bible! what a treasure
Does the Word of God afford;
All I want for life or pleasure,
Food and Med'cine, Shield and Sword;
Let the world account me poor,
Having this, I need no more."

FATHER PATRICK AND DARBY.

(Father Patrick comes into Darby's cabin, and finds him reading.)

"Father Patrick.—What book is that, Darby?

Darby.—A Testament, Sir.

Father Patrick.—But don't you know, Darby, that you ought not to read that book without the leave of your Clergy?

Darby.—Will you listen to me, Sir, while I tell you how the whole came to pass? and then you may condemn me if you please."

(Darby explains at considerable length an accidental acquaintance with a Mr. Knowles, which induced him to send his son Johnny to school. Darby expatiates upon the benefit which Johnny has received from instruction.)

Father Patrick.—I am surprised, Darby, that your little Johnny should mind Sunday so well, without any one bidding him. I do my best to get the children to leave off their sports and wickedness on that day, and I can't get any good of them.

Darby.—To do you justice, Sir, I have often heard you bid the people, both big and little, mind Sunday and not be going on with their wickedness on that day; but they did not mind you; and I used often to wonder how it was, that, if you bid them not touch any butter during the Lent, they would sooner starve than taste a morsel of it; but with all your good advice to them, to keep from liquor, and from bad language, and from their wicked practices, they would still go on, after the old fashion.

Father Patrick.—The same thing often struck my own mind, Darby, I confess to you; and often have I grieved to think, how little they attended to my advice, when I bid them be sober, and modest, and religious, as I wished them to be; while I had no trouble in persuading them to do any thing I bid them, about the rites and ceremonies of the Church.

Darby.—I don't wonder you should have thought bad of it, sir; I well remember when I would get dead drunk and quarrel and fight, the same day that I would not, for the world, let a bit of meat into my mouth: but may be the rest of my story may help us

vered—Now, Sir, after having heard me, what do you say? Do you bid me turn this book out of the house?

Father Patrick, with some emotion, answered—Never, Darby! Never, while I live! I would rather lose my right hand, than be the man to give you such directions. Whatever I thought before, I now think that if I were to bid you to part with your Testament, I should be like one that was separating what God has joined together.

There was now a pause, when Father Patrick, recollecting himself, said, "Darby, I was near forgetting the business I came upon. I was coming to inquire about your old bed-ridden mother. I hope she is as well as her circumstances admit of."

Daaby.—She says, Sir, that she was never so well in her life.

Father Patrick.—How is that, Darby? Sure you don't mean she has recovered her health; she must be too old for that?

Darby.—No, Sir; she is the same poor bed-ridden woman you knew her; but she has got new life, and she says she never felt happy before. Some time ago we removed her to my sister's, as being a better cabin than mine; and you must know this same Johnny, who has turn'd us all upside down, asked leave to go and read his book to his poor old grandmother; and every day since that, he has gone regularly to her, to read by her bed-side.

Father Patrick.—Let us go, Darby, for I wish to see your poor mother at any rate.

Father Patrick and Darby went together to Darby's sister, where his old mother was, and upon entering the house, they found little Johnny by her bed-side, reading the Testament to her.

(The Grandmother, in reply to Father Patrick, told him how her change was wrought.)

"Here the tears began to run down the good old woman's cheeks; Johnny could not help sobbing aloud; Darby's eyes were fixed upon his poor old mother, with affection and reverence; while Father Patrick found himself unable to suppress his emotion, and was obliged to give way to feelings for which he could not account.—After some time, Darby broke silence, and, turning to Father Patrick, said, "Well, Sir, what do you think of this?"

Father Patrick.—I can only say, Darby, that if this be only a delusion, it is of an excellent kind; and I could almost wish to change places with your old mother, though she is languishing on the bed of sickness, and I am in the full vigour of youth and health. As to your Testament, you need not fear that I will give you any trouble on that score; for if I were to deprive you of it, I do not know any thing so good that I could give you in its place. I'll tell you more than this, Darby: from this hour I hope to make the word of God my study. I have read the works of men with great care; and they may be good in their place; but I have this day got a lesson about the word of God, that I hope, I shall never forget. I am not ashamed to confess this, as I believe it will make you happy."

[K.]

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THE PROTESTANT OR TRUE BLUE.

PROSPECTUS.

"At a period like the present—the Editor presumes he cannot more highly gratify the numerous Loyalists of this part of the United Kingdom than by giving them a superior collection of all the truly Loyal and Constitutional Songs of Merit that can be obtained.

At a time when Protestants are prohibited by law to show outwardly any demonstration of their attachment to the existing Government of the Country, we have reason to be thankful to God that our Printing Presses are not tied down by similar *Acts*, that from them may emanate the cheering light of Gospel truth, of attachment to the Protestant cause, and of cherishing in the bosom of the rising Generation, the Glorious Principles that placed the House of Brunswick on the Throne.

Every country in the world has its National Songs and Airs; and let not Songs be despised, as strongly tending to give a peculiar bias to the mind—such they have been in all ages, and surely not less so now.

The Editor proposes in the present instance, to give to the public, a chaste, liberal, and superior collection of all the *Loyal Songs*, new and old, that he or his friends can possibly collect."

THE SIX PRIESTS.

TUNE.—*Black Joke.*

Six Priests dined together one *Friday in Lent*,
To raise a rebellion it was their intent,
With their long black cloaks and vestments so white;
One swore by the Pope, another swore by the devil,
Another roared out in terms more civil;
The fourth shouted out by the powers of man,
To raise a rebellion I'll do all I can,
With my long cloak and vestments so white.

The fifth he roared out, as he carv'd up some mutton,
"Oh, Lord! how I should like to be heretics gutting,
With my long fork and great carving knife."
"Bravo," said the sixth, "I second your motion."
Then those six *holy sons*, of wine took their portion,
They all with one voice, did truly agree,
That in Protestant blood they would wade to the knee,
With their long black cloaks and vestments so white.

They toasted *Lord Edward*, and gave him three cheers,
They filled up full bumpers to traitors and *Sheers :*
With their long black gowns and vestments so white :
When a clap from each one made the house for to ring,
It's God save the Pope, and down with the King,
The chairman cried out, "as 'tis getting too late,
I'd better sit down and settle the state,
With our long black cloaks and vestments so white."

Then one of those Priests to another did say,
If we chance to be taken we'll see *Botany Bay ;*
With our long black cloaks and vestments so white.
So take my advice, and kill all you can,
Spare not a woman, a child or a man ;
For heaven you'll get for doing such deeds,
And clearing the country of ruinous weeds,
With our long cloaks and vestments so white.
&c. &c. &c.

THE DAY'S OF CONCILIATION.

BY C. H. LODGE, 599.

Attend unto me and I'll tell you a story,
'Tis not about whig, nor 'tis not about tory ;
Its about a Noble Marquis who came to us lately,
Popish Bishops and such like, he adopted completely.
These were the days of conciliation,
O ! the happy days of conciliation.

Now Wellesley he thought to conciliate the nation,
By forcing the Protestants out of their station ;
For the Papists they shouted, they cheered and caressed him,
The disloyal from every town, were found to address him.
These were the days, &c.

Then the spruce *Knave of Clubs*, in hopes to be knighted,
He pledged them his word that they soon should be righted
In spite of Sir Harcourt, Master Ellis or King,
He'd make the Orange lie down, or College-green ring.
These were the days, &c.

Round King William's statue he made a great rout, sir,
And with horse and foot encompassed it about, sir ;
I remember the time when the army fired round it,
And with Laurels and Orange triumphantly crown'd it.
Those were not the days, &c.

In the Play-house one night, there was a great row, sir,
A Bottle was thrown, but they could not tell how, sir;
They could not tell how—it seemed all conjuration,
For the Bottle *was smoke*, to their great consternation.
These were the days, &c.

Now Colley he said, it was aimed at his life, sir,
A Bottle sure enough, is far worse than a knife, sir;
Poor Delzos were taken, cunning Plunkett did rail, sir,
But it ended in smoke, or like a shower of hail, sir.
O, the happy days of conciliation,
So much for the effects of conciliation.

In future we need have no trial by Jury,
Since ex-officio Plunkett, denounce them in fury;
He swore by the Mass he would make them remember,
Unless that their consciences to him they'd surrender.
O, the happy days, &c.

Now Protestants beware and adhere to your charter,
Nor for titles and places your liberties barter;
Stand fast to your God, to your King, and your Creed, sir,
And then from your enemies you soon shall be freed, sir.
O, the sad days of conciliation,
May we never reap the fruits of such conciliation!

MOLL RAFFLE'S LAMENTATION OVER AN OLD FRIEND.

And are you sick my C—ll—y dear?
Ah! werra sthru! ah! werra sthru!
Cheer up, cheer up, your Molly's here,
Ah! werra sthru, my C—ll—y,
Your own poor Molly Raffle, who,
Bade Portsmouth Docks and k—ps adieu,
Left Reefers, Sailors, all for you,
My gallant gay old C—ll—y.

Ah! woe attend that fatal day,
Ah! werra sthru! ah! werra sthru!
When you my C—ll went to the play,
Ah! werra sthru my C—ll—y!
There sat in state with powdered wig,
With shanks so small and nose so big,
Thou dear conciliating whig,
My coaxing amorous C—ll—y!

My curse upon the arm that threw,
That mighty *beam* of *wood* at you,
Ah! werra sthru my C—ll—y!
May *Jeffries* in his clutches get,
That nasty, dirty, Orange set,
Who knock'd a bottle at my pet,
And nearly kilt my C—ll—y!

Its you that loves the good L—d M—y—r!
Ah! werra sthru! ah! werra sthru!
And drives him in your chaise and pair,
Ah! werra sthru my C—ll—y!
Its you that likes the *Papists* best,
And would'nt let Old Bill be dress'd,
In spite of *Forbes* and the *rest*,
My blessings on you C—ll—y!

&c. &c. &c.

THE END.

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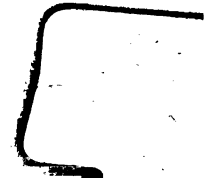
ERRATA.

Page 18, After Mr. Townsend, K. C. *dele* " Judge."
29, line 12, for " Agents," read *Agent.*
31, *l.* 15, for " he (Wood)" read *he (witness).*
33, *l.* 4, for " two years," read *two years since.*
52, *l.* 26, for " Algeo did report," &c. read *Algeo did;—reported, &c.*
54, *l.* 42, for " terms," read *term.*
56, *l.* 9, for " allow," read *allows.*
62, *l.* 14, for " adopt," read *adapt.*
64, *l.* 40, for " other instances of undue &c." read *in other instances, undue &c.*
73, *l.* 13, for " 28" read 2.
75, *l.* 14, for " prison," read *division.*
85, *l.* 14, for " lightness" read *tightness.*
111, *l.* 1, for " by terms," read *his terms.*
112, *l.* 7, *dele* " it."
114, *l.* 47, for " the others," read *the rioters.*
159, *l.* 30, for " fell," read *feel.*
189, *l.* 3, for " Inspector's General," read *Inspectors General.*
202, *l.* 12, for " hot diet," read *low diet.*
206, *l.* 19, for " meal," read *meat.*
217, *l.* 20, for " did attend him," read *did attend here.*
248, *l.* 4, for " which they were to be," read *which they thought to be.*
258, *l.* 8, for " purposes of severity," read *purposes of security.*
267, *l.* 13, for " his person," read *her person.*
278, *l.* 2, for " would know of them," read *would not know of them.*
289, *l.* 36, *dele* " Russell's."
290, *l.* 2, for " Magrath," read *Graham.*
324, *l.* 45, for " charges," read *changes.*
352, *l.* 42, for " I would have asked, &c." read *I would have asked you as I asked the other witness here, how do you account for the number of Conversions?*
353, *l.* 2, for " you may convey," read, *do you convey.*
353, *l.* 23, for " become Protestants," read, *became Protestants.*

*** It may not be entirely out of place to remark under this head, that, as in many instances the language of this Report may be objectionable to the admirers of *good style*, it should not be forgotten, that the Compiler has endeavoured throughout, the work, to follow as closely as possible, the phraseology of the different parties in question.